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**NEW YORK STATE TAX DEPARTMENT**

**PROCEEDINGS OF**

**Third and Fourth  
Conferences of Local Assessors**

**AND**

**TENTH AND ELEVENTH  
STATE TAX CONFERENCES**



ESTABLISHED 1892

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**ALBANY, NEW YORK**

**March 2nd and 3rd, 1921**

**February 20th and 21st, 1924**



THIRD  
CONFERENCE OF LOCAL ASSESSORS  
and  
TENTH  
STATE CONFERENCE ON TAXATION

ALBANY, NEW YORK

March 2 and 3, 1921

ADDRESSES AND PROCEEDINGS

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# ORGANIZATION OF THE STATE TAX DEPARTMENT

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# TENTH STATE CONFERENCE ON TAXATION

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## FIRST SESSION

WEDNESDAY AFTERNOON, MARCH 2, 1921, 2 O'CLOCK

CHANCELLOR'S HALL

Opening of Conference

Address of Welcome, Mayor JAMES R. WATT of Albany

Responses, HON. M. J. WALSH, President, State Tax Commission; CHARLES J. TOBIN, Esq., Vice-president, New York State Tax Association

Organization of Conference

Adoption of Rules

Tax Legislation of 1920, CHARLES J. TOBIN, Esq., Attorney, Albany, N. Y.

State Tax on Personal Incomes, HON. MARK GRAVES, Director, New York State Personal Income Tax Bureau

Exemptions from Personal Income Tax, Professor FRED R. FAIRCHILD, Yale University





## FIRST SESSION

MARCH 2, 1921, 2:15 P. M.

Called to order by Hon. M. J. WALSH, President, State Tax Commission.

MR. WALSH: The Third State Conference of Assessors and Tenth State Conference on Taxation will come to order.

Gentlemen, I have the honor of presenting to you the Honorable James R. Watt, Mayor of the City of Albany.

MAYOR WATT: Mr. President and Gentlemen: This is the second official convention that I have had the pleasure of meeting with today, and it surely is a satisfaction to me. Conventions of all kinds, particularly those associated, as yours is, with the administration of the various municipalities you represent, are doubly welcome. It is also a pleasure to extend the greetings of the people of Albany to conventions assembled. We are proud of our city, present conditions notwithstanding. It is the second oldest city in the United States; in fact, it is *the oldest* enjoying continued existence. No other city of the country is of more interest historically; no other city has seen more of history made within its limits; and much of this history is recorded, in literature, art, and memento housed in this very building.

I am glad to see so many people here from outside our city, because I know now that you agree with me in not believing all you read in the papers, for if you did you would not have come; or if you had come, you would have been prepared with Gatling guns, blackjacks, and other means of defense against the thugs, cut-throats, highway robbers, second-story men, and other dangerous characters which no doubt you have read that we are infested with. Therefore, I congratulate you on your nerve in coming to our city under the trying present circumstances as they no doubt have been presented to you.

I appreciate it is only natural for each public official to feel that he has assumed the greatest responsibility. Mayors naturally come to feel that they have more responsibility than other officials, and under the law they actually have, because they are charged with the duty of seeing to it that their associate officials and subordinates do their duty under the law. I think I have good reason for assuming that you gentlemen are willing to share your responsibilities today, particularly those of you who represent municipalities wherein there has been occasion during the past few months to raise the assessments. You no doubt have had your troubles, and I sympathize with you, because in our city, when the assessors take a stand and stick to it, then all the other members of the administration are approached to be told what they think of the assessors. We think well of our assessors, so well that we do not sympathize with applications for influence to effect reductions in special cases, because we think that when these assessors were selected by the people to handle that part of the city's business, that they should be encouraged and upheld and not interfered with, any more than they should be allowed to interfere with other branches of the municipal government.

I know that you gentlemen have a great many matters of interest before you to consider, and I am not going to detain you any longer. I simply wish to say to you, in all seriousness and sincerity, that in behalf of the people of Albany I extend to you a most cordial and hearty welcome, and I hope that you will be so pleased with the hospitality here that we may have the pleasure of your attendance here again at a very early day.

PRESIDENT WALSH: Mr. Mayor, as President of the State Tax Commission I desire to express to you, on behalf of the conference, our sincere appreciation of your kind tender of welcome to the Capital city. Some of us are more familiar with the city of Albany than are others. I am one of those who, having spent more than six years of official life in Albany, am perhaps more conscious of the spirit of hospitality which you personify than are some of



our friends gathered here this afternoon who come here less frequently. You express it truly, Mr. Mayor, for I have observed an hospitable spirit in old Albany, and I think it has been apparent to most of those who visit your city. I notice, too, that everyone who comes here in official capacity feels so, and that is borne out by the very evident unwillingness to leave here; and our equal willingness to return. Myself, I am one of the political Finnegans: in again, out again; and then there may be, I hope, another line to the rhyme.

I am sure that the members of this conference appreciate the city of Albany and sympathize with the feeling of pride in it which is shared by all Albanians. It is, of course, your city. To those of us who reside in other subdivisions of the State, it is our Capital city, so we occupy that peculiar relationship to Albany that we do to no other city in our State. And so we look with interest upon the progress of Albany. We note with pleasure the advancement that you are making, and we are not deceived by the newspaper reports to which you refer.

We express our best hopes for your city. It is a sincere personal pleasure to meet you personally today, and we desire to tender our best wishes for your continued good health and success in your ventures.

PRESIDENT WALSH: I now introduce Mr. Charles J. Tobin, Vice-president of the New York State Tax Association.

MR. CHARLES J. TOBIN: Mr. Mayor, Ladies and Gentlemen of the Conference: In the absence of Congressman Mills, I am pleased to extend appreciation and thanks to his honor, the Mayor, in giving us the privileges of the city. Acting in the capacity of one of the vice-presidents of the Tax Association, and as one of those interested in the tax problem, endeavoring each year to promote a better understanding of the problem to come from the interchange of study and opinion through these conferences, and as an Albanian, I say that I am glad of the pleasure of holding

our conference here. We have tried many locations in the State, and I believe it is the unanimous opinion of those interested, that the best results are obtained by having the conference in Albany. One factor contributing to the success of conferences held here is railroad convenience, and population center — though not exactly from a geographical standpoint — it is the best situated of any of the cities for a gathering of this kind. There is also at this period of the year the added attraction of enabling all to meet with your senators and assemblymen; to get into contact with them personally and their work, and also at this time to interest them in our work. It is not sufficient that we should “resolve,” pass resolution after resolution here, if we do not make it known to our representatives and to your representatives what we believe they should do on the other side of the street (in the State Capitol).

The New York State Tax Association wishes to express its appreciation to the assessors for attendance in past conferences and for their big co-operation, and expresses the desire to help at any time in the problems you have in hand. You have a State Tax Commission that is moving forward all the time; and it is in such kind of administration that the Tax Association is interested. And we wish to help the assessors in every way, and I express Senator Mills’ message when I say, “Call on us and we will help in your problems.”

I thank the Mayor, and I am glad we are here, because I think it is the best town in the whole State and in the whole United States!

If in order, I will ask his Honor the Mayor to preside for the organization of the Conference.

It is with great pleasure I move the nomination as permanent chairman of this Conference, Honorable M. J. Walsh, President of the State Tax Commission, a man who has extended the efficiency of the Tax Department, moved forward the tax work for the entire State, and particularly the work of the assessors.



I nominate Hon. M. J. Walsh of Yonkers, New York, President of the State Tax Commission, as permanent chairman of this conference.

MAYOR WATT: No other nominations are heard. All those in favor of Mr. Walsh's selection as permanent chairman of this conference signify by saying aye.

Chorus of affirmatives.

MAYOR WATT: The prerogative of the chair makes that unanimous.

MR. GEORGE H. RYMERS of Plattsburg: I nominate as Secretary of the Conference Mr. Horace B. Casey of Albany.

Carried unanimously.

MR. WILLIAM S. DOWNS of Bay Shore: I nominate Mr. John M. Turner for Assistant Secretary of this Conference.

Carried unanimously.

MR. WALSH: Mr. Casey will take his place as Secretary, and I would ask Tax Commissioner Smith, Professor Fred R. Fairchild, and the invited guests to take seats on the platform; also Deputy Commissioner Rockefeller, and Mr. Burke of Buffalo.

MR. WILLIAM J. BURKE of Buffalo: I move the adoption of the following Rules of Procedure for this Conference.

On order of the chair, Secretary Casey read the following rules of procedure:

I. The program as printed and distributed shall be adopted and followed with such modifications as may be required by reason of absences, vacancies, or other causes.

II. The usual rules of parliamentary procedure shall apply to the deliberations of the conference.

III. Discussions in the conference shall conform to the purposes for which the conference is called.

IV. Addresses shall be limited to thirty minutes, and speakers in discussion to five minutes. The time of a speaker may be extended by unanimous consent of those present.

V. In general discussion no person shall speak more than once during the same period of discussion until others desiring to speak have been heard.

VI. A Committee on Resolutions shall be appointed by the chair.

VII. All resolutions shall be put in writing and read to the conference, and shall be referred immediately, without debate, to the Committee on Resolutions.

VIII. No address or statement from the floor shall be taken as the expression or opinion of the conference, except such statements as may be presented in a report of the Committee on Resolutions and adopted by a majority vote of those present.

MR. FRANCIS N. WHITNEY of New York: I desire to move that the Vice-president, Mr. Tobin, in the absence of the President, Congressman Mills, be authorized to appoint a committee on nominations for officers of the association for the ensuing year. The committee will be in session tomorrow morning.

MR. WALSH: You have heard the Rules of Procedure as offered by Assessor Burke of Buffalo. All in favor of their adoption, please signify by saying aye!

Carried unanimously.

MR. WALSH: It is customary at this time to provide for a Committee on Resolutions.

A VOICE: I make a motion that a Committee on Resolutions, to consist of eleven members of the conference, as usual, be appointed by the chair, to report and offer resolutions for consideration.

Carried unanimously.



MR. WALSH: I desire at this moment to express the gratification of the State Tax Commission for the very large attendance at this session of the conference. It means, I feel, that this is going to develop into the most largely attended tax conference yet held in this State. We, the State Tax Commission, feel grateful to every official, every representative of a tax district, assessors, supervisors, and all others, who have made the journey to Albany to join in the work in which we are all so much interested and are all so anxious to push forward.

We shall now proceed with the fixed program for this afternoon. As you know, it is the custom to select a presiding officer for each session. With the consent of the members, I now request Mr. Francis N. Whitney of New York to act as presiding officer for the remainder of this our first session.

MR. WHITNEY: Mr. Chairman and Gentlemen of the Conference: I consider it a very great privilege and honor to be called upon by your permanent chairman to preside over this session. I assure you the distinction was entirely unexpected; I knew nothing about it until a moment ago. Therefore I have not prepared an address, and I do not feel it is necessary to attempt an extemporaneous one. We will, therefore, proceed immediately with the work of the conference, in accordance with the program which we have adopted.

The first subject, Tax Legislation of 1920, will be presented by Mr. Charles J. Tobin of Albany, attorney at law, and Vice-president of the New York State Tax Association.

## TAX LEGISLATION, 1920

CHARLES J. TOBIN

*Vice President New York State Tax Association*

At the 1919 conference I was assigned a similar subject. I then attempted to review the new State Income Tax as prepared by the Special Joint Committee on Taxation and Retrenchment, of which Senator Davenport is Chairman and Assemblyman Judson Vice Chairman.

This same Committee completed another advance in the year 1920, a real step in tax reform. It is known as Legislative Document No. 80, year 1920, retrenchment section.

Similar to the Committee's findings in 1919, the 1920 report is unanimous. In former years it was impossible to obtain a report of a legislative committee on taxation that all members signed, but the same was accomplished by Senator Davenport and Assemblyman Judson.

The Committee in its report on "Retrenchment" found that the total expense of government in the State, including local government for 1918 was 436 million dollars, and that for 1920 it would be approximately 500 million dollars. The returns for 1920 were not all complete, so I have not been able to verify this last figure.

The ratio of expense State to local government in 1918 was 17 per cent State, 83 per cent local.

The Committee addressed itself in its retrenchment program to:

1. Growing Expenditures and Steps Toward Economy in Municipal Government.
2. Education and the City.
3. Governmental Organization.
4. The Municipal Budget.
5. Municipal Indebtedness.
6. Municipal Pensions.
7. Purchasing.
8. Municipal Tax Limits.

9. Mandatory Expenses.
10. Assessment of Property for Taxation.
11. County Government in the State of New York.

*The causes for marked increases in the costs of City government were stated as—*

1. The very rapid increase in the appropriations devoted to education.

2. The extension of government into new fields of activity, such as parks, playgrounds, nursing, Americanization, health education, etc.

3. The need for extended city improvements partly to make up for the long period of inactivity during the World War and partly to meet the new standard of service and equipment demanded of the city by the people.

4. The expansion of municipal services, such as fire and police, to render more and better service in response to popular demands.

5. The "enthusiasm and desire of department heads to render greater service" and to expand their departments.

6. The change in the value of the dollar and the new price level.

7. Inappropriate and poorly functioning governmental organization.

8. Inefficiency and waste.

*The principal faults in the system of County government were stated as—*

1. The inaptitude of a large and unwieldy board of supervisors meeting at infrequent intervals in coping with the perplexing financial and administrative problems of a large and growing county.

2. The decentralized administrative organization which covers up inefficiency and promotes irresponsibility.

3. Primitive business methods, as for instance, inadequate accounting procedure, defective budget pro-



cedure; and uncontrolled and decentralized purchasing procedure.

4. An unduly long and complex ballot which makes it difficult to get a true expression of public opinion at the polls in the more populous counties.

5. Mandatory legislation causing unnecessary expense.

*The summary conclusions of the Committee as to City government were:*

1. The present form of governmental organization in the cities of this State is, in most cases, fundamentally unadapted to produce efficient and economical administration.

2. The present separation of power and responsibility in school administration is an inherently wasteful system.

3. A majority of the cities are not operating under a genuine budget system, and in few cities are all funds included in the budget, or are all expenditures controlled by the budget.

4. The present provisions of bonding laws do not prohibit unsound and wasteful municipal bonding.

5. Several millions of dollars are being spent annually by the cities for interest on tax anticipation notes which might be saved in whole or in part through the collection of taxes earlier in the fiscal year.

6. Municipal pension funds are on the verge of bankruptcy because of unsound pension laws.

7. The methods of purchasing supplies by cities of the State are, with few exceptions, antiquated and wasteful.

8. Tax limits do not limit, as a matter of practice, but tend rather to increase the costs of government.

9. Mandatory expenditures, for which the State Legislature is responsible, cannot be charged with any important part of the increasing costs of municipal government.

10. The methods of assessment throughout the cities of the State and the equalization of assessments are almost universally unsatisfactory.

11. The growing proportion of exempt property in the various taxing jurisdictions has already become a serious problem.

*The conclusions of the Committee on County government were:*

1. The governmental needs of the counties of this State vary so greatly as between semi-urban sections and the purely rural sections that a single form of county government cannot be applied successfully to all the counties of the State. A system which meets the needs of Westchester, Nassau and Erie counties, will be far from satisfactory for Clinton and Schoharie counties, while the reverse must be even less satisfactory. The natural variety of the counties demands similar elasticity in their governmental organization.

2. Under the present provisions of the State Constitution a satisfactory reorganization of county government to meet the needs of the urban counties is impossible.

The Committee in its report discussed other topics of importance to a tax conference:

### TAX LIMITS

Tax limits have been discussed both in State and National Conferences. The findings of the Committee as to tax limits and city government are important in guiding us in our work:

1. Tax limits do not limit.—Cities with tax limits spend as much and raise as much by taxation as cities without tax limits. The tax limit may serve to curtail expenditures for one or two years, but as soon as the restraint is felt, an amendment is secured which then encourages expansion since the tendency is to levy



the full amount permitted whether it is necessary or not. The experience of cities in this State, and in all other States, points uniformly to this conclusion. Ohio is the one exception, and there other and more serious abuses have resulted.

2. Tax limitations encourage unsound bonding.—Wherever comparative studies have been made of cities with and without tax limits, or wherever the same cities have been studied before and after the adoption or the repeal of tax limits, it has always been found that tax limits encourage bonding as a means of hurdling the tax limitation. Studies made by your Committee in this State, in Ohio, Oregon and Indiana, as well as the investigations made in Massachusetts, bear out this conclusion.

3. Tax limitations should never apply to debt service.—Municipalities should never be restricted in levying taxes to meet their interest and bond maturity obligations. Such limits serve merely to injure the city's credit and compel it to pay high interest rates to bond buyers. The limitation of indebtedness should be attained through other methods.

4. There is no way in a democracy of blocking a genuine popular demand for increased governmental service through an arbitrary limitation upon the tax levy. Tax limitations have not prevented cities with such limits from maintaining about the same governmental services at about the same costs as other cities of the country. The popular demand for governmental services and for improvements in accordance with the accepted standards of city life have either brushed aside tax limits or secured their amendment in the majority of our cities. This is especially true in the State of New York. Arbitrary limits have not shown themselves able to stand in the way of a growing conception of governmental service.

5. The only effective method of securing a restriction of tax levies without hampering municipal services,

encouraging unsound bonding and promoting periodic expansion and extravagance lies along the line of centering full responsibility upon a single elected official through:

(a) The establishment of a comprehensive and binding budget system which will bring to the attention of all the costs of the services which are demanded of the government and the working program of the responsible executive.

(b) The enactment of a complete bonding act which will prevent unsound bonding by the municipalities.

(c) The wide distribution among the electorate of the direct tax burden.

*In view of these conclusions the Committee recommended four propositions:*

1. The adoption of a policy by the Legislature which will encourage municipalities to centralize executive authority in a single elective official.

2. The preparation and enactment of a municipal budget law.

3. The preparation and enactment of a municipal bonding law.

4. The repeal of all tax limitations as soon as the three recommendations above have been carried into effect, and the discouragement of tax limitations in such new charters or charter amendments as may be laid before the Legislature in the meantime.

#### ASSESSMENT METHODS

*On assessment methods in cities the Committee attempted to point out the essentials of a correct system:*

1. Assessment at 100 per cent of market value.

2. Tax maps showing the metes and bounds of all property within the limits of the taxing district.

3. The block and lot system of indexing property holdings and office records.

4. The adoption of the unit foot system.



5. The adoption of an approved depth rule, corner influence rule, alley influence rule, plottage rule, and such other minor rules as are necessary.

6. The preparation and adoption of a standard building classification with unit factors of building value.

7. The persistent collection of all information bearing on property values and its preservation in readily accessible and permanent form.

8. The installation of modern office necessities, such as wide-carriage typewriters, calculating machines, and files.

9. The preparation of a land value map covering the entire city.

10. The publication of the tentative assessment roll where practicable.

## TAX LAW

### STATE

#### *Administration*

Section		Chapter
174	The State Board of Equalization is now required to meet on the first Tuesday in June instead of the first Tuesday in September .....	185
170	The salary of the president of the State Tax Commission is made \$8,500, and that of each of the two other commissioners \$8,000.....	667

### EXEMPTIONS

#### *United States Insurance or Bonus Moneys*

4 subd. 5	Real property purchased with the proceeds of a bonus or insurance money granted by the United States or by the State of New York for military or naval services and owned by the person receiving the bonus, or the insured, or by his wife or widow is exempt from taxation in accordance with the provisions of this section as amended..	413
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#### *Intangible Personal Property*

4-a (new)	All <i>intangible</i> personal property except shares of stock of banks or banking associations whether owned by individuals or corporations is made exempt from taxation effective June 30, 1920 .....	647
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## BANKS — TRUST COMPANIES

Section		Chapter
24-c	The <i>bank</i> tax of 1 per cent under section 24 is made in lieu of <i>any</i> franchise tax to which a bank exercising fiduciary powers might be subject under section 188 of the tax law.....	84
	This was necessary to avoid double taxation where a bank and trust company had been merged.	

## SPECIAL FRANCHISES

45-a	Corporations and municipalities are required to file their complaints against special franchise valuations or rates of equalization with the Tax Commission fifteen days before the date of hearing or grievance day.....	648
	In effect September 1, 1920.	

## MERCANTILE AND MANUFACTURERS' CORPORATIONS

(Franchise Tax on Business Corps., Article 9-a.)

*Foreign Corporations Base of Tax*

209	The entire net income of a corporation organized without the United States shall be the basis of calculation and not merely the amount earned in the United States or the amount returned to the United States Treasury Department.....	640
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*Companies not Subject*

210	Corporations whose sole business consists of holding the stocks of other corporations for the purpose of controlling the management and affairs of such corporations, except those subject to report under subd. 9 of § 211 are excepted from the statute .....	640
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*Information Required*

211	subd. 1	Corporations organized without the United States are now required to state the facts in relation to their <i>entire</i> net income, wherever earned.....	640
211	subd. 4	Corporations must report their bills and accounts receivable in accordance with the scheme of segregation provided in section 211, except where such assets of the corporation as are provided for by the segregation were all located in New York State. In such a case the entire segregation may be omitted by signing the consent as provided by subd. 8 of this section.....	640
211	subd. 7	Corporations must report such additional facts as the tax commission may require for making any computation under article 9-a or for comparison with former reports in order to detect fraud or error. ....	640
211	subd. 9	A consolidated report and other information may be required by the tax commission from corporations owning or controlling substantially all the capital stock of other corporations. Combined re-	



## Section

## Chapter

ports may be filed where capital stock is owned by same interests. Tax may be imposed as if one corporation, or may be otherwise equitably adjusted by tax commission. Associated corporations conducting their affairs in such manner as to show an improper net income must furnish such facts as the tax commission deems necessary for the computation of the tax.....

640

*Computation of Tax*

214 subd. 4 The word "tangible" is added in defining "personal property"—which with real property values—are averaged with other items to determine by rule the proportionate amount of entire net income taxable in New York State...

640

214 subd. 5 The average total monthly value of bills and accounts receivable for the fiscal or calendar year arising from the sale of personal property or from certain services performed by the corporation must be considered in the segregation of assets under this section.....

640

214 subd. 7 The State Tax Commission is authorized to assess the tax against the corporations upon a report under subd. 9 of § 211 of the Tax Law or this subdivision. And the computation of the tax may be based upon the combined entire net income and the combined segregated assets or other information. The commission may otherwise equitably adjust the tax.....

640

The minimum tax under this section may be one mill upon each dollar of that part of the corporation's issued capital stock as its gross assets employed in this State bear to its gross assets wherever employed. The basis of the tax is made the same where the corporation has stock without par value, such shares of stock being deemed to have a face value of \$100 each.

Corporations maintaining nothing more than a statutory office for the conduct of their business outside of the State and subject to the one mill capital stock tax are made taxable upon their entire issued capital stock.

*Rate of Tax*

215 No tax imposed where the corporation is subject to the one mill capital stock tax or the minimum tax of \$10 under article 9-a.....

640

*Revision and Readjustment*

217 Provision requiring notice to the corporation and opportunity to be heard where the tax imposed is based upon an estimate, repealed.....

640

218 Penalty for failure to report may be modified in the discretion of the tax commission upon the resetting of an account for taxes.....

640

Section		Chapter
219-c	Where failure to pay the franchise tax under article 9-a was not wilful or evasive, the Comptroller upon proper proof may modify the penalty . . . . .	640
219-j	Old section with the exception of the exemption of the personal property of corporations taxable under article 9-a repealed. . . . . <i>Also correction in punctuation made in such exemption provision.</i>	640

## TAXABLE TRANSFERS — INHERITANCE

*Exceptions*

221	Additional language so as to exclude from tax, bequests made for religious ceremonies, observances or commemorative services of or for the deceased donor, or to any person who is a bishop. . . . .	765
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*Secured Debts*

221-b	The 5 per cent additional tax on secured debts as a penalty for failure to pay during life time repealed . . . . . Such repeal to apply to decedents who died subsequent to July 31, 1919. Assessments fixed on account of transfer of property of a decedent who shall have died subsequent to said date to be cancelled, and taxes refunded.	644
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*Burial Plot*

228	Surrogates may make now an order permitting a person designated therein to examine the papers of a decedent in a safe deposit box or other depository for the purpose of ascertaining whether the decedent left a will or deed to a burial plot. Such examination shall be in the presence of a representative of the State Comptroller and an officer of the corporation. . . . .	454
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*Surrogate's Compensation*

234 subd. 17	New subdivision 17 is added by which surrogates receive a certain compensation for their ministerial services under the transfer tax law, depending in each case upon the population of the counties in which the surrogates hold office. . . . .	688
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## MORTGAGE TAX

*Mortgages for Indefinite Awards*

256	The Tax Commission may permit the filing of a statement under this section as of the date of the recording of the mortgage where it appears that an honest misconception as to the nature of the instrument has been made. In such case the tax with interest only is payable. . . . .	75
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Section		Chapter
	This was mainly purposed to clear up old litigation, where the parties in interest attempted to record as a deed, that which was afterwards determined to be a mortgage.	
	The provision of the laws concerning taxes is made more definite.	
258	The mortgage tax with 6 per cent interest is payable, except where it could not be determined from the face of the instrument that a tax was due, or where an advancement has been made on a prior advance mortgage or a corporate trust mortgage without payment of the tax, in which case a penalty of 1 per cent a month shall be added to the tax.....	51

#### *Executory Contracts*

258-a (new)	Executory contracts not acknowledged or proven in such a manner as to permit recording may nevertheless be presented to the county clerk and the same mortgage tax paid thereon as if such instrument had been entitled to record....	641
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### PROCEDURE — CERTIORARI PROCEEDINGS

#### *Appraised Valuations*

293	In the trial of certiorari proceedings under the tax law evidence as to actual sales of real property within the tax district during the year in which the assessment under review was made may be introduced. Each party may also be required to simultaneously file with the court or referee the tabulation of the appraised valuations placed upon the parcels selected by the witnesses of the respective parties, and each party shall serve on the other at the same time copy of such statement or tabulation.....	643
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#### *Costs*

294	If an assessment shall be reduced by the court in certiorari proceedings to an amount less than half the reduction claimed before the assessing officers the costs and disbursements may in the discretion of the court be awarded against the tax district .....	649
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### ARTICLE 15

#### *Secured debts — Investment Tax*

330-340 (Art. 15)	Repealed . . . . .	646
	The exemption of so-called secured debts had no place in our tax law at any time. It was an abortion on our tax system and properly wiped out by the Income Tax Law.	



ARTICLE 16  
INCOME TAX

*Resident*

Section	Chapter
350 subd. 7	The word "resident" is defined to include any person who shall at any time during the last six months of the calendar year be a resident of the State . . . . .
	691

*Nonresidents*

351-a (new)	The tax on nonresidents provided for in section 351 of the Tax Law is reimposed with respect to the taxable income for the calendar year 1919, and for any taxable year ending during said year and for each year thereafter. Returns for the year 1919 shall be filed on or before June 30, 1920, unless extended as otherwise provided. . . . . This made effective the change necessary in the law to care for the Yale-Towne decision.
	191

*Personal Debt to State*

351-b (new)	Taxes imposed under the Personal Income Tax Law are made personal debts due the State of New York . . . . .
	191

*Exceptions*

352	Money on hand or on deposit with or without interest is made exempt for local taxation; also all other intangible personal property therein referred to whether the same is <i>income producing or not</i> . In effect June 30, 1920. . . . .
	120

*Gross Income*

359 subd. 1	"Gross income" is defined to include gains or profits or income derived through estates or trusts by the beneficiaries thereof whether as distributed or as distributive shares. . . . .
	695

*Interest*

360 subd. 2	All interest paid or accrued during the taxable year on indebtedness is allowed as a deduction in computing net income. (Amendment retroactive to January 1, 1920) . . . . .
	693

*Losses — Nonresidents*

360 subd. 5	Losses to nonresidents not connected with trade or business for which deductions from net income may be made are limited to transactions in real or tangible personal property which have an <i>actual situs within the State</i> . (Amendment retroactive to January 1, 1920) . . . . .
	693
360 subd. 6	Losses arising from fire, storms, shipwrecks, etc., not connected with trade or business deductible under this subdivision are limited in the case of nonresidents to <i>real or tangible property having a situs within the State</i> . (Amendment retroactive to January 1, 1920) . . . . .
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*Contributions*

Section		Chapter
360 subd. 10	Contributions or gifts need not be made to corporations or associations organized <i>only</i> under the laws of this State to be deductible under this subdivision. (Amendment retroactive to January 1, 1920) .....	693

*Exemptions*

362	The personal exemptions allowed under this section are extended to all taxpayers <i>including non-residents</i> . The \$2,000 exemption for husband and wife shall be equally divided between them if separate returns are made.....	191
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*Estates*

365	The personal income tax shall be levied, collected and paid annually upon and with respect to the income of estates or trusts. This includes the income of an estate during the period of administration or settlement. The fiduciary is made responsible for making returns whether the income is taxable to the estate or trust or to the beneficiaries .....	695
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*Withholding Agents*

366 subd. 1, 2	Beginning with the calendar year 1920, withholding agents shall deduct and withhold the taxes prescribed by section 351 of the Tax Law from the amounts by which the salaries or other compensation of nonresident taxpayers exceeds the amount of the exemptions granted to such taxpayers under section 362 of the Tax Law. The comptroller may make regulations relieving non-residents from making returns under the Personal Income Tax Law. Withholding agents are not required to deduct or withhold where a certificate has been filed.....	691
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*Fiduciary*

	The fiduciary must make a return for the individual, or estate or trust for whom he acts in the following cases: (a) during the period of administration or settlement of an estate; (b) where the income has accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests; (c) where the income is held for future distribution under the terms of the will or trust; and the net income is \$1,000 or over.....	695
	Such returns must also be made for: (a) an estate or trust the income of which is to be distributed to the beneficiaries periodically or (b) as the guardian of an infant whose income is to be held or distributed; and the beneficiary receives or is entitled to a distributive share of such income of \$1,000 or more.	



*Change in Reporting Period*

Section		Chapter
370	Where the basis of computing net income is changed from the fiscal year to the calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December thirty-first . . . . .	691

*Date of Return*

371	Income tax returns are to be made on or before the fifteenth day of the fourth month following the close of the fiscal year, or if the return is made on the basis of the calendar year, then the return shall be made on or before the fifteenth day of April in each year. This amendment takes effect June 1, 1920 . . . . .	691
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*Tax Determination Within Three Years*

373	subd. 1	The amount of personal income tax due under any return shall be determined by the Comptroller within three years after the return was due or made, except where the same was wilfully false or fraudulent, in which case the amount of tax may be determined at any time after the return is filed and the tax may be collected at any time after it becomes due . . . . .	690
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*Inspection Authorized*

373	subd. 2	The Comptroller is authorized to examine or cause to be examined by his agents, papers, records and other memoranda required to be included in the return of the taxpayer. He may also require the attendance of the person making the return or any other person having knowledge of the facts for examination under oath . . . . .	690
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*Interest*

377	subd. 1	When the time for filing the return has been extended for the withholding agent he is required to pay 6 per cent interest upon the amount payable from the time when the return was due to the time of payment . . . . .	692
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*Excess Taxes*

377	subd. 3	Excess taxes as computed by the comptroller must be paid within ten days after the amount of the same shall be mailed to the taxpayer by the Comptroller. If the return is made in good faith and the mistake is not due to any fault of the taxpayer, interest at the rate of 1 per cent per month or fraction thereof only shall be added to the amount of the deficiency. If the understatement is due to negligence on the part of the taxpayer, but without intent to defraud, 5 per cent
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Section		Chapter
	shall be added to the amount of the deficiency together with interest at the rate of 1 per cent per month. An understatement made with intent to defraud doubles the tax upon the additional income discovered, and an additional 1 per cent shall be added to the amount so due for each month or fraction of a month.....	692
	<i>Compromise</i>	
379	subd. 2 The Comptroller is authorized to waive, reduce or compromise additional taxes or interest.....	692
	<i>Apportionment to Tax Districts</i>	
382	The personal income tax is apportioned by the county treasurer among the towns, villages and cities in their respective counties in the proportion that the assessed valuation of the real property of such town, village or city bears respectively to the aggregate assessed valuation of the real property of such town, village and city..	694
	<i>Inspection of Returns</i>	
384	subd. 3 (new) The Comptroller may permit the commissioner of internal revenue or an income tax official of another State to inspect income tax returns or may furnish an abstract of the return to such official. Such information is furnished only if the statutes of the United States or such other State grant substantially similar privileges to the proper officials of this State.....	60
	<b>COUNTIES</b>	
	<i>Administrator</i>	
59	The warrant to be attached to the tax roll is now required to be under the seal of the board of supervisors instead of the seal of the county..	164
61	subd. 8 The clerk of the board of supervisors is required to furnish the State Tax Commission with the amount of moneys distributed to each district in the county from the proceeds of the business corporation (article 9-a) tax and the personal income (article 16) tax, the county treasurer furnishing the information to the clerk.....	645
51	Commissioners of equalization in counties may be paid \$10 per day for their services. The amount that can be paid any commissioner for his services in any one year is limited to \$500.....	54
154	Conveyances by the county treasurer in Suffolk county shall name the county as grantee. The title to such county property may be disposed of in such manner as may be determined by a majority of the board of supervisors.....	178

MR. WHITNEY: Gentlemen, I feel we are indebted to Mr. Tobin for his intelligent resume of the tax legislation of 1920. We are fortunate in that we shall have it to refer to when the proceedings are printed.

The next paper is of interest to all of us, because we have had one year's experience with the State Income Tax. I do not know how you feel about it personally, but I believe in the State income tax principle, for the reason that I think every individual should contribute something to the State local expense of government. As you know, part of it goes toward paying local expenses. It makes better citizenship, and the best basis on which to levy that contribution is on the ability of the taxpayer.

As I said before, we have had one year's experience with the making of returns and payment of the tax. The law has been administered well and carefully through the Comptroller's office by Mr. Mark Graves, who is the head of the personal income tax bureau. It is with great pleasure I introduce to you, although it is not necessary, because you know Mr. Graves very well, Mr. Mark Graves, who will speak on the subject of the State Income Tax.



## STATE TAX ON PERSONAL INCOMES

MARK GRAVES

*Director, New York State Personal Income Tax Bureau*

I suppose my excuse for being here is that I have something to do with the administration of the baby tax law, the last new form of taxation which the State of New York has adopted. I do not know just how I should present this subject to you this afternoon. I am at a loss for a method of approach. If you will hark back with me for two years, you will remember that in 1919 the State of New York was rather put to it for revenue. Not only was the State in need of more revenue, but the counties and the cities and the towns and the villages and even the school districts of the State were clamoring for additional revenue. In the State our expenses had been growing very rapidly for a period of twenty-five years. In 1896 it cost approximately eighteen and one-half million dollars to run the state government. Twenty-five years later it was costing upward of one hundred million.

Now, the reason why State expenses had grown so rapidly was due to a variety of causes. Some of those causes grew out of the war, to increased prices. Some of the increases grew out of our debt service, because in 1896 the State owed *less than one thousand dollars*. At the present moment we have an authorized funded debt of *three hundred and twelve millions*, of which two hundred and thirty-six millions have been issued. In the present year, if we issue the bonds contemplated to be issued for highway, canal, and soldier bonus purposes, it will cost next year, in interest and sinking fund contributions, as much as it did to run the entire State government twenty-six or twenty-seven years ago. Then, too, the loss of revenue due to nation wide prohibition entered into the situation two years ago.

All that seemed to make necessary the adoption of some new form of taxation. If a new form of taxation were not

adopted, it meant that the general property tax rate would have to be increased sufficient to raise the additional revenue, or that some special taxes should have their rates increased. In the final analysis, it was decided to adopt this individual income tax. I shall speak of the wisdom of adopting it later on; but before I depart from this question of State expenses I hope you will be indulgent if I also depart from the subject of income taxation.

We are now engaged here in Albany in preparing a budget for next year. Governor Miller and the Legislature are co-operating in trying to reduce appropriations, in trying to reduce expenditures. They are giving no thought to seeking new sources of revenue. For following that course, they should be commended. I believe all fair-minded persons should give them their ardent, energetic, and enthusiastic support in the programme which they have mapped out. I will tell you why this is important.

With existing revenue statutes, the income of the State is about \$124,000,000 yearly. Our appropriations for the current year are \$140,000,000, or \$16,000,000 more than our income. Perhaps Governor Miller and the Legislature will find it well nigh impossible to reduce next year's appropriations below \$140,000,000. I think we should be content if they reduce them to \$140,000,000. If they reduce them below that figure, our measure of thanks to them should be so much the greater. But here is the fact: At \$140,000,000 a year for expenses, we are exceeding our income by more than \$16,000,000. The only reason we are not now confronted with a prospective rise in the tax rate for State purposes is that on July 1st of last year we had in the State treasury a surplus of more than \$30,000,000. Some of that is being used this year, now, to pay the appropriations of \$140,000,000 in force. Some millions of dollars will be used next year to meet the budget that is now being prepared, so that a year from now that \$30,000,000 surplus may be exhausted, or nearly so. A year from now we may be again seeking new sources of revenue or contemplating the increase of existing tax rates.



Those are facts, ladies and gentlemen; while I do not wish to be presenting little glooms to you, those are the facts.

We are confronted with a situation where, a year hence, we may be seeking new sources of revenue. That makes pregnant Governor Miller's statement contained in his message, that before any new projects are undertaken, the costs must be counted. I consider that a striking phrase. We are too little given, here at Albany and back in your towns and your cities and your villages — too little given to counting the cost before we undertake some new project. We must keep constantly in mind that if we will engage in those new projects; that if we will enter into new activities; if we build roads and highways and canals; and enlarge the scope of public education, of the labor department, and of all the rest of the departments; and if you enlarge your activities locally, just keep in mind that the "piper must be paid." The taxpayer will have to foot the bill.

But to return to this subject of income tax. Many people thought that an individual income tax law would perhaps be resented. I will admit that I was skeptical. I feared that the high personal income tax rate established by the Federal Government would make the people resentful of paying a State income tax on that same income. But this is the astonishing fact: I think we have received into the income tax bureau five letters commending the fairness of the law for every one which we have received condemning it! That demonstrates that the Legislature acted wisely, that they did respond to the will of the people. While the people regretted that they must suffer additional taxation, yet it does indicate, to me, that the least objectionable form of taxation was adopted.

I think I need not tell you of the details of that law. Briefly, it taxes natural persons and trusts and estates. Under this statute corporations and partnerships pay no taxes; but natural persons are divided into two classes: We tax the resident upon his income from all sources, wherever derived; we tax the nonresident upon his sources of income from

within the State. The propriety of doing that has been debated pro and con; but for a State situated as is the State of New York, it is extremely doubtful if we can or will afford to abandon that particular feature of our statute. Certainly we shall not do that until New Jersey and Connecticut and the other sister States have adopted one.

I have said that the law does not tax partnerships. That is true. But it does require every partnership to render a return of income, but no tax is paid on it. Individual partners report the income in their individual returns. It also requires returns of fiduciaries; that is, executors, administrators, trustees, et cetera. But again, no tax is paid on such a return. It is informative only. Speaking generally, an estate, or a trust, pays a tax only if and when the income is being accumulated.

One feature of our law which is worthy of note, and which I am sure you people will welcome information about, is the duties of a withholding agent. We require withholding agents — and that term includes those who pay personal service compensation, interest, and rents to another, to send us an informational return, so that we may see to it that the person receiving the income actually accounts for it; actually renders a return and includes that item in it. It may affect some of you; if you pay any given person \$1,000 or more for services or rent or for interest, you are required to report that.

Last year we changed the date, so as to make the date of filing returns April 15th instead of March 15th. We did that for the purpose of giving one month's leeway between the date when the taxpayers are required to file returns with the Federal Government and the date when they are required to file with us.

The statute, as you quite likely know, provides for a distribution of the revenue collected under this law between the State and the existing subdivisions of the State. In accordance with that provision, we did distribute one-half of \$37,000,000 to the county treasurers of the State prior to December 31, 1920. They in turn distributed it to the cities, towns, and villages within their respective counties.



I take it that you will wish to know something of the number of people who paid us taxes. We received all told 826,000 returns; but some of those were received from withholding agents, some from partnerships, and some from estates and trusts. Individuals, natural persons, filed 745,000. Of that number, approximately 36,000 were received from nonresidents of the State. It may be some satisfaction to most of you, to those of you who are residents of the State, to know that 36,000 nonresidents of the State did contribute something out of their incomes toward the payment of the expenses of the State of New York and of the municipal subdivisions of the State. But not all of these people who filed returns paid taxes; because, under the provisions of the law, a man may be required to file a return although his personal exemptions eat up the amount of his net income. The fact is that 619,000 people paid taxes. I sometimes have to look at these figures to see that I am right.

The taxes which they paid aggregated, with bank interest and penalties and interest charged on delinquent taxes, \$37,188,000. That figure is one, perhaps, which you will like to retain: \$37,188,000 was collected between January 2, 1920, and December 31, 1920. It was collected from 619,000 taxpayers, in sums ranging from one cent up to half a million dollars or more. I recall that during the early days of the operation of our bureau many people ventured the suggestion that people would not be as fearful of the State as they are of the Federal Government. In other words, that taxpayers would render return to the Federal Government, and pay taxes on their incomes, but neglect or fail so to do for the State, on the theory that the arm of the State would not be as long; that our ability to enforce the statute would not be as successful. Federal figures are not available for 1919; but in their statistics for 1918 they show that 559,000 returns were received in New York State. I am content that people respond as willingly to the payment of our tax as they do to the payment of the Federal tax, because, leaving out of consideration the 36,000 nonresidents



who paid taxes to us, we received 149,000 more returns in 1920 than the Federal Government did in 1918. I believe that conclusively shows that people will generally respond as willingly to the payment of a State income tax as they will to the payment of a Federal income tax.

When I told you a few moments ago that we collected within the calendar year 1920 \$37,188,000, I did not mean to imply that we shall not collect for that year more money. Perhaps the popular thought is that a bureau such as ours has nothing to do but receive tax returns and accept tax payments, and then carefully deposit the money in the bank and file the returns away. If that be your conception of it, I hope you will disabuse your minds of the idea. We realized when this income tax law was enacted that there was being put to the test the question as to whether a State, particularly a great State like New York, with its diversity of population and diversity of business and complex situations generally, could successfully enforce and administer an individual income tax law. We therefore laid our plans with some degree of care, as we thought and as we like to believe.

Last April, when we had received the bulk of these returns, we set about organizing an audit bureau, so that we might give each return an individual audit. We appreciate that if you pay a tax you feel better about it if you know that you have paid no more than you should, and if you know that your neighbor has paid all that he should, and if you know that no fellow is escaping. Our first step, as I say, was to organize an audit division to audit 800,000 returns. That is some little problem in itself, but we have succeeded in doing that. On February 15, 1921, we had completed the audit of 700,000 returns, except that we had some few thousands in correspondence. We had written to people and they had not yet answered, or if they had answered their letters were not satisfactory.

But you wish to know whether this audit of returns is perfunctory. You would like to know whether we are doing all that merely for the purpose of giving employment, and

Up to night before last, February 28th, we had completed the audit on 722,000 returns. We had found 26,600 who had not paid enough tax, and we had issued additional assessments and collected most of them, amounting to \$959,000 — nearly a million. By the time we have completed the audit of these 1919 returns, when we have closed the correspondence with the few thousands with whom we are corresponding we shall have assessed and collected \$1,100,000. Necessarily that is an estimate, but I am basing it on our experience in auditing 722,000. And here is a thing that will also interest you: I feel as pleased about this as I do about our accomplishment in collecting money. In auditing these 722,000 returns, we found nineteen thousand and a few odd people who had paid too much, and we have sent them refund checks. That evidenced to me a point which I would like to convey to you — that is, that the average taxpayer, the average citizen, is honest. He desires to pay all that the government requires of him. He simply wishes to have a square deal. We have found only 7,000 more people who paid too little than we have who paid too much. That is a lesson, an illustration, which should give us confidence in humanity.

I think in very many cases people pay more income tax than they should, simply because they do not know how to make out their income tax returns. Take in the city of Albany. One of the best lawyers in the city (and in the State) rendered a return and apparently paid five dollars too much tax. We inquired of him why? He said: "I always figure up my income and add \$500 to it, so as to be sure and have enough."

Another feature of the work in which I believe you may be interested is this: We have to do something to seek out the delinquents, because, while I have great faith in humanity, there are always a few members of society who will evade taxation if possible. But did you ever stop to think how difficult it would be for you (and it was just as difficult



for us) to go out and find people who have neglected or failed to pay an income tax? Most of you are assessors. You go out to assess property, and something confronts your eye. You see a house or a store or a lot or some tangible property. But incomes are intangible, invisible. We cannot go out on the street and look at a man and tell whether he should pay an income tax. It gave us some little concern to decide just how to proceed to seek out delinquents. It is true that we had information at source; it is also true that many people write us letters saying that in their opinion so and so has not filed an income tax return — and by the way, I would like to enlist the support of you assessors. You would positively do the State, the income tax bureau, and your counties and your towns and your villages a kindness if you have a belief that someone in your locality ought to pay a tax and has not, and you will send us his name and his address. Within the last month, in New York, we picked up a tax of between \$350 and \$400 just on the strength of an anonymous letter that came into our office. I am not trying to encourage you to spy upon your neighbors, but I am trying to impress upon you this: We are engaged in trying to attend to your business, that is of collecting for the State of New York income taxes; we are trying to locate these people who are trying to evade the law, and inasmuch as we are attending to the business of the State of New York, which is your business, we believe that you should be willing to co-operate with us in that respect.

But to get back to the work of seeking out delinquents. We finally decided to start in a small way in certain selected sections of the larger cities and just make a canvass from business place to business place and see what results we would obtain. In following that line of endeavor it was found to be quite productive. From the first of last May up to night before last we made 42,000 personal calls at places of business on prospective taxpayers. Now you can imagine that it takes some little time to make 42,000 calls unless you have an unlimited force at your disposal. Some of you have read the newspapers about consolidation, and perhaps you have



formed the opinion that we are loaded down with useless help; but that is not quite the situation. We keep our help busy. We kept from ten to sixty men busy in this field investigation work, and they made 42,000 investigations. They found 8,600 delinquent taxpayers, and they collected from 8,000 delinquent taxpayers \$165,000. That is not a vast sum of money, but to put it concretely, so that you may know whether we were doing a paying business for you or not, let me say that we kept records showing just how much effort we were putting into field investigations. We have kept accurate track of our costs, and we found that up to night before last, for every day's work which we placed on field investigation we have in the treasury \$21.72 per day per man—\$21.72. These men working in the field receive from five to eight dollars per day. No man receives more than eight dollars. If we send them out of the cities they incur some expenses, but to get that \$165,000 for the State of New York we probably spent \$80,000; but we did a paying business. Moreover, those 8,600, if they had taxable incomes, will be reached this year because we have their names on our books; and not only that, the moral effect of our efforts in these localities has been productive of good. You take in the city of New York: If we had a man working in a certain block, in a few days returns would come from this block just ahead of him. The fact that investigators were working came to the attention of men who knew they would be reached in a week or two, and they wished to avoid penalties by getting their returns in early.

I will tell you frankly that one of the most important things we are doing today in the income tax bureau is giving tax returns careful audits, so that the man who has paid too much gets a refund check, and the fellow who has not paid enough receives an additional assessment and the further activity of going out into the field, seeking out the delinquent, and, to use a vulgar phrase, "making him come across."

I could think of a lot more things I would like to tell you, because when I get warmed up on this subject of income

taxation, and tell of the work which we are doing, I become positively enthusiastic about it. But we have a treat in store for us, which I shall share with you. Professor Fairchild, I believe, is to follow me, and we will receive food for thought in listening attentively to what he shall say to us. I thank you.

CHAIRMAN WHITNEY: Now, gentlemen, we have with us today Professor Fairchild of Yale University, New Haven. Professor Fairchild has done us the honor to come here to our conference, and will address us on the subject of Exemptions from the Personal Income Tax. His subject is in line with the income tax address we have heard from Mr. Graves, who is administering our New York State Income Tax Law, and I know Professor Fairchild never fails to give us a lot, not only of interest but of intense value.



## EXEMPTIONS FROM THE PERSONAL INCOME TAX

PROFESSOR FRED R. FAIRCHILD, YALE UNIVERSITY

Mr. Chairman, and Ladies and Gentlemen of the Conference: Knowing as I do of the splendid work of this association and the high standard set by these annual conferences, I regard it a privilege and a pleasure to be able to speak to you this afternoon, and under these circumstances it is a matter of regret that I have not been able to prepare a more formal paper. The time since I received your president's invitation has been so short that I have not been able to more than hurriedly marshal the ideas lurking in my mind on this subject of exemptions.

I know now how my students feel when suddenly called upon to pass an examination without due notice and ample time for preparation. I hope that I may at least do as well as the schoolboy of my acquaintance, who, returning to the family board after school, announced that he had made one hundred in his studies that day. After receiving the proper measure of parental commendation and felicitation, he was asked what were the studies in which he had made this high and unusual percentage. He replied: "Fifty in spelling and fifty in arithmetic." I hope that I may at least do as well as that.

It is a sort of hobby of mine that, in attacking any practical tax problem, we will help ourselves toward clear thinking, if we recall and hold firmly in mind the personal character of taxation. We hear so much about taxation of property, of income, of profits, of franchises, that we are in danger of getting the idea that taxation is a purely impersonal thing. A very eminent jurist, author of a commentary which I presume every law student has to read, makes somewhere the statement that taxes are a contribution from persons and from property. That statement is not correct. Taxation is a contribution from persons, not from property. After every



person has paid his tax, there is no further tax to be collected from property! Taxation is a contribution from persons and from persons only, and property or income enters only as a measure of the amount of taxation which the several persons shall respectively pay.

Keeping in mind this personal character of taxation, let us ask ourselves what are the grounds upon which persons are called upon to pay taxes. Taxes are a contribution for the support of government. Every person who is able to pay should be required to pay something toward the support of government, for the reason that he enjoys the benefits of government. The measure of the amount which he should pay is his ability to pay. I recognize that there are exceptions to this. There are privilege taxes paid in return for certain privileges received from government; but these payments are more properly called "fees" or "assessments," and there is in fact no important exception to the general principle that ability to pay is the measure of the amount of the contribution of the citizen toward the cost of government.

On what grounds, then, should persons be exempted from paying taxes? Note that it is *persons* who are exempted from taxation, not property or income, and when we use the latter phrase we use it either carelessly, not knowing what we mean, or as a short cut to the more correct statement that persons are exempted from taxes upon their property or income, as the case may be.

There are certain exemptions which will generally be admitted not only reasonable and just, but, indeed, necessary. First of all, there are certain technical exemptions — exemptions necessary to carry out the spirit of the tax law. To take a common example: Where a corporation is taxed upon all its property, it is usual to exempt the stockholder from the tax upon his shares of stock. This is an obvious requirement for the sake of avoiding double taxation, and those states which do not adopt this obvious expedient are guilty of taxation which is unjust — which does not treat the different citizens with equality and fairness. Regard for

the personal character of taxation should show that such an exemption is really not an exemption at all. The modern tendency to give up the taxation of intangible personalty is justified by this principle. Intangibles generally represent property rights in wealth which exists in a tangible form somewhere and which is there subject to taxation, and the taxation of wealth plus the taxation of the right to that wealth is double taxation. After long years of unfortunate experience, we are beginning to learn this lesson, and I predict that the coming generation will see a revision of our property tax along the line of doing away with the double taxation arising from taxing at the same time the wealth and the property right to the wealth. Technical exemptions of this sort are obviously justified; indeed, are not properly called exemptions at all.

In the second place, there are administration exemptions. Some property is impossible to find, and some property, while it might be found, requires for its finding a cost greater than the revenue to be obtained from taxing it. It is idle to seek to tax property of these classes. It is not only a waste of time, a financial loss, but it is a positive injustice. If the law says that certain classes of property shall be subject to taxation, when as a matter of fact everybody knows that such property is not generally taxed, injustice is done. The law is made a farce, and there is no important revenue to serve as an excuse. Most of the attempts to tax personal property in the form of household effects, clothing, jewels, books, libraries, pictures, and so on, comes under this head. Some people pay, some do not. Most people laugh at the idea of the attempt to tax such property, and a wise revision of the tax laws of our States would, I think, lead to the elimination of the attempt to tax much of this sort of property.

Without going into further details, it is obvious that there are certain kinds of property which it is not worth while to try to tax, and the exemption of such property is justified on that ground. Such exemption does not mean the granting of a personal favor. In fact, the attempt to tax such property leads to a personal injustice, which is



largely removed when the State gives up the attempt to do the impossible.

In the third place, there are some persons who are unable to pay taxes. Every State recognizes that a certain minimum amount of wealth, a certain minimum income, cannot be taxed. You cannot tax people below the bare minimum of subsistence, otherwise you must give with the hand of charity what you take with the hand of taxation, and nothing is gained to show for the effort.

In the fourth place, the State does not tax itself, and for this very obvious reason public property is exempt from taxation, as it very properly should be. This principle, I regret to say, is sometimes pushed too far — pushed over to cases which are not taxation of the State at all. I shall have occasion to refer to some such cases a little later.

Finally, there are certain institutions and agencies which are performing semi-public functions, such as schools and colleges, charitable institutions and similar organizations. The principle upon which such institutions are exempted is that they are performing a function which it is the duty of the State to perform. So far as they do their work, they relieve the State to a certain extent of the cost of meeting its duties and obligations, and to the extent that the State is thus relieved, it is reasonable that the State should exempt from taxation these organizations. The case of education is an example. Nothing is more universally admitted as a duty of the government in this country than education. The State is under obligation to furnish education to its citizens. If, now, private schools, endowed by private fortunes, relieve the State of some of this burden, we have a fairly clear and simple justification for tax exemption. Charitable organizations likewise perform a function which the State admits to be its own, and exemption in such cases is proper.

When we go much beyond this we are on debatable ground, and very soon we are on ground in which there is no room for honest debate. This principle of the quasi-public institution is in many of our States carried to extreme through the exemption of all sorts of organizations, religious, fraternal,



social, etc., for which I confess myself unable to find any justification.

We have passed in review the principles which justify tax exemption and the cases in which it will generally be admitted that exemption from taxation is just, reasonable, or even necessary. Every other exemption means the granting of a special favor, a privilege, something inconsistent with the very notion of American democratic government. Are such special privileges ever justified? Certain arguments are urged in their favor. To answer this question fairly we must strike a balance between the two sides of the account. On the one side, we must find a public advantage obtained by such special exemption. On the other side, we must recognize the fact of a special favor, with all the evil presumption that attaches thereto; and we must, furthermore, not neglect to trace out the indirect effects of such special favor. Unfortunately, most of the discussions of special exemptions, particularly the arguments urged in their favor, do not proceed by this method of striking a balance of debit and credit. They expatiate loudly and in glowing terms of the great advantages, real or supposed, accruing from whatever particular exemption is being advocated, and there they generally drop the matter, without turning to the other side of the account. We shall have to require something more than this of the advocate of exemption.

So much for the statement of general principles. Let us turn now to the personal income tax and the problem of exemptions under the income tax. The income tax is so clearly and obviously a personal tax that the problem is rather easier than the corresponding problem of exemptions under the property tax. Why should anybody be exempt from the income tax? In answer to this question, there occur at once certain obviously fair and reasonable exemptions. There are the technical exemptions which are really not exemptions at all, and they are of two classes. For instance, the federal income tax exempts to the individual dividends received from investment in corporations, so far as the normal tax is concerned. The reason is that the cor-

poration itself is already taxed upon its entire net income. In my opinion, this is not the best way to do it; but taking the law as it stands, so long as there is a tax on the entire net income of corporations, it is purely a technical exemption to excuse the individual from paying taxes on dividends received from a corporation already taxed on its entire net income. Such exemptions are required to avoid counting the same income twice. Another sort of technical exemption is really not an exemption but part of the definition of income. When the law exempts inheritances, gifts, payments on insurance policies to beneficiaries, et cetera, this is not an exemption at all; it is simply a way of defining what income is, and means that certain revenues are not subject to the income tax because they are not income.

Again, every income tax law, in every country in the world, leaves a certain minimum income exempt from taxation. The bare minimum of existence cannot be taxed. Here we have an exemption which will universally be recognized as proper. How low this minimum should go is a practical question. Before the war it looked as though our exemption of one and two thousand dollars was pretty high. As compared with the exemptions of most European countries, which go down to five hundred or three hundred dollars, or even less, our exemption was high; but with the great increase in the cost of living it is doubtful today if we could successfully press the income tax down much lower than one and two thousand dollars. On the other hand, it would in my opinion be a serious mistake to raise the exemption. The only justification for this exemption is that there is a bare minimum of subsistence below which nobody can be taxed, and it is only a question of how low that minimum actually is.

There is one suggestion here which I feel inclined to throw in by the way (Mr. Graves may find some flaw in it), namely, that in requiring reports from taxpayers we might require every taxpayer to report whose *gross* income is up to the minimum, rather than basing the duty to report on the net income as we now do. The present tax laws of our Federal



Government and most of our States leave the taxpayer himself to determine, within certain limits, whether or not he is liable to the tax. I have no doubt we would in this way bring in many more taxpayers and collect more revenue, and thus have a tendency somewhat to force down the minimum exemption, without doing any injustice, since we would not thereby impose a tax on any one not liable to it under the spirit of our present law.

There are certain administrative exemptions which must perhaps be made under an income tax. Some incomes are so small that it is not worth while to try to tax them. A natural stopping point is the point at which the revenue obtained is less than the expense of its collection. However, on the other side, there is the very strong advantage of a wide distribution of the income tax. No result accomplished by the income tax is, in my mind, more important than its effect in bringing home to the great mass of the people the fact that they are personally responsible for government and are called upon personally to bear their share of its cost. The wider you can make that foundation, the greater the number of citizens you can bring into this body which feels a direct responsibility, a direct financial stake, in government, the better your government will be. I do not, therefore, regard the administrative limitation to the income tax as of much weight. I doubt if the administrative exemption will lead us to any exemption whatever beyond what is required by the necessity of exempting the minimum of existence.

I believe I have fairly summed up the grounds upon which exemption from the personal income tax may properly be granted. Are there other grounds on which exemptions may be justified? There can be no doubt that exemptions are now granted, and other exemptions are being urged, which do not rest upon any of the grounds which I have named. What shall be said of these exemptions? Let us examine some of the more important examples.

Should a State exempt from its income tax the salaries of its own officers? The only possible argument in favor of such exemption is the assumption that the State may thus be



able to secure services at lower salaries. The argument is not convincing. There is little reason to suppose that there would be any such exact adjustment of State salaries as to give the State an advantage from the exemption. On the other side, the objections to granting special favors to a privileged class are decisive. Every such exemption weakens the foundation of the personal income tax which ought to be as nearly universal as possible. In some few cases the courts have held such exemption to be a legal necessity. But such cases are exceptional and generally only temporary, and they are without force as an argument in favor of any such exemption not so required.

For the exemption of salaries of officers of other States or other grades of government there is still less justification. There is here no appreciable advantage to the State granting the exemption which becomes a special favor pure and simple. It is true that the complications arising from our own federal form of government have appeared to require the exemption from the federal income tax of the salaries of State officials, and *vice versa*. It is my opinion that this interpretation of our Federal Constitution is incorrect. The question has, I think, never been adjudicated upon its real merits. But however that may be, there is no economic justification for such exemption. If the United States Constitution does require it, the Constitution should be amended.

Many income taxes, though not all, exempt the interest on bonds of the State imposing the tax. In support of this practice, people say, why should the State tax itself? The answer is, the State is not taxing itself; it is taxing certain of its citizens on income received in the form of interest on the State's bonds. But, it is said, does not the State gain in a lower interest rate on its bonds what it loses from the exemption? And if so, why not save the cost and trouble of collecting the tax? There was force in this argument when income taxes were at flat rates, without progression. Even so, it is reasonable to contend that the State might well bear the cost of collecting the tax in order to avoid the cre-

ation of a privileged class exempt from its share of the income tax which others have to pay.

But when we come to the modern income tax, imposed at progressive rates, the whole argument for exemption breaks down. The exemption is of different value to different investors, according to the size of their respective incomes. If only as many bonds were issued as could be absorbed by the wealthiest class of taxpayers, they might take them at a reduced rate of interest measured by the rate of tax which they have to pay. No lower class of income taxpayers would accept the bonds at this interest rate. And just as soon as the State has to issue more bonds than can be absorbed by the wealthiest class, it will have to pay an interest rate that will be attractive to the lowest income class to which it must appeal to market its bonds. Every higher income class receives an exemption only partly offset by the lower interest rate. And the State loses more in taxes from the upper income classes than it gains in a reduced interest rate. Finally, the special favor granted to investors in bonds is peculiarly obnoxious, since its value increases directly with the wealth of the taxpayer. One of the very worst mistakes made by the United States in financing the world war was the exemption of Liberty Bond interest from the federal income tax.

When we come to the interest on bonds of other States or other grades of government, there is absolutely no economic justification for exemption. This case is exactly parallel to the exemptions of salaries of state officials. The complications arising from our federal form of government are the same. In my opinion, the notion that the United States Constitution requires such exemptions is erroneous. In any case, such exemptions should be given up, with an amendment to the Constitution if that be necessary.

The pressure for exemption does not stop with interest on government bonds and salaries of public officials. Exemptions are being urged, and even granted, in favor of the greatest variety of interests. Exemption has been granted to the interest on bonds of the federal land bank.



Exemption of the income from securities of public utility corporations is being urged, and just at present we are hearing much in favor of exempting interest on real estate mortgages. The argument for exemption in all these cases rests upon the assertion of some public advantage to be secured, and the general line of argument is always the same. We can test it by examining a single illustration: Suppose we take the one which is perhaps of most interest at the present moment — the demand for exemption of interest on real estate mortgages. The argument is simple. Stripped of all its adornment of printed word and eloquent oratory, it comes down to this: Exemption of interest on real estate mortgages will encourage building. The need of buildings is acute, and a public service will thus be rendered by the expedient of tax exemption. This is the argument. It is adorned in many ways by statistics, by evidence, by exhortation, by argument, by special pleading — but after all the argument simmers down to this, and the case must stand or fall on the strength of this argument.

Now, in the first place, the asserted advantage of exemption is grossly exaggerated. The difficulty of obtaining capital is by no means the only cause for the shortage of buildings at the present day. It is easy enough to name others. The high cost of materials, the high level of wages, difficulties with organized labor, are simply a few examples. It is certain, then, that the difficulty of obtaining capital is not the only obstacle in the way of present day building; it is probable that it is not the most important obstacle, and it is possible that it is not even an important obstacle at all. I have for many years been interested in the question of the taxation of forest lands, and have had occasion to study the tax laws of our various States upon this subject. The experience with forest taxation has given us an illuminating example of how tax exemption works. Some twenty or thirty years ago the States pretty generally came to the notion that they ought to exempt forest lands from taxation, to a greater or less degree, in order to encourage the planting and growing of timber. As I recall, some twenty or thirty



States have thus granted special exemptions; and I can tell you this afternoon, that after an experience of a generation the results obtained from this policy of exemption have been practically zero. I have no hope whatever that the granting of exemption to interest on real estate mortgages would have any important effect upon building operations.

Let us turn to the other side of the account. If the effect of an exemption is to divert capital into building operations, that capital must come from somewhere. An equal amount must be diverted from some other enterprise. Now, it is a dangerous thing for the State to judge as between different enterprises; to say "this is good," and "that is bad"; or "this is more to the interest of the public than the other"; and then by special legislation to encourage the diversion of capital from certain lines of enterprise into others. Building is good; but building is not the only good thing. Shelter is an important necessity of life, but shelter is not the only thing we need. When the State, by special discrimination, seeks to divert capital and labor from certain channels into others, it is easy to expatiate on the advantage to accrue to some; but how about the equal disadvantage accruing to others? I am old-fashioned enough to believe that the safest guide for the employment of the nation's capital is the old law of supply and demand, which I note some persons profess to hold in disrepute these days. Take it from me, this law will be with us for years to come. Substituting the political guide of government, acting through special favors in the form of tax exemptions, is a move fraught with the utmost danger.

Let me again call your attention to the personal character of taxation. Somebody has to pay taxes. If some citizens are exempted on account of certain investments, somebody else must foot the bill. It is very nice for him who receives the exemption, and it is easy to point to the advantage which he receives, but how about the other citizen, who is forgotten and neglected? It is a simple problem in mathematics. You cannot benefit the one citizen without penalizing the other, and I submit that it will take a very strong

showing of public advantage to justify such favoritism. The building up of a special class, favored through tax exemption, is a thing which on the face of it is repugnant to our sense of justice.

But it is more than that. It is a thing which is fraught with danger to our political institutions. During the generation following the Civil War a loud and bitter outcry arose against the owners of United States bonds. Congress saw fit to exempt such bonds from all taxation, and there grew up then a class of wealthy citizens (for only the wealthy could afford to invest large sums in government bonds at the low rate of interest which they bore) receiving large incomes from the government, upon which they were exempt from taxation. It was an easy thing for the demagogic politician to cry out that these people, having taken advantage of the government's misfortune in time of war, to exact unfair and unreasonable terms, were now living in ease and idleness on money which the common people were called upon to contribute. It was a dishonest attack. The bondholders had nothing they were not entitled to. They had come to the aid of the government in the time of its distress, and they were receiving what they were entitled to; but it was easy to raise the cry against them. In the next generation this same sort of demagogic outcry will be raised against holders of Liberty bonds and other bonds enjoying exemption privileges, and it may be that the spark will fall upon more inflammable material in the next generation than that upon which it fell in the nineteenth century. This is a risk we cannot afford to take. We cannot afford to violate the sense of justice and fair play, upon which the stability of every democracy must rest, by a system of taxation which builds up a special privileged class enjoying favors denied to the mass of the people whose tax burdens are thereby increased.

Finally, we have the danger of the breakdown of the income tax itself. Modern democracy has placed great hopes in the income tax. It is that tax which best lays the burden of government according to ability to pay. The principle of



progression has been accepted in the interest of justice. Exemption from the income tax strikes at the very heart of progressive taxation. The exemption which is granted is worth more to the wealthy man than to the poor man, and if exemptions in general are bad, what can we say for that particular kind of exemption whose value increases as the taxpayer's wealth increases? And that is just exactly what the exemption from the income tax does. It means little to the man who pays at a low rate; it means more to the man who pays a high rate; and the citizen who is especially favored, to whom its value is the greatest, is the one who pays the highest rate.

The danger of creating a precedent is not to be overlooked. Already we see it. One of the chief arguments urged by every advocate of special tax exemption today is the fact that exemptions have already been granted. The public utility corporations put up the plea that their services are as worthy of support as the services of municipal corporations which now enjoy exemptions, and it is not easy to meet such a plea having once granted the opening. Just as soon as you grant one exemption you increase the demand for more, and you start on a toboggan slide which becomes more slippery and more steep the farther down you go.

Here, then, is the balance sheet. On the one side is the supposed encouragement to building, an advantage which is almost surely exaggerated, which, if it exists at all, is never so important as is urged. That is all there is on the credit side. What do we find on the other side? An overwhelming list of objections: injury to other useful enterprises, unjust special favors, political dangers, threatened destruction of that income tax which is destined to be the backbone of the American tax system. When we view the account in this way, cold-blooded, calculating, as a matter of debit and credit, where does the balance rest? I think that question can safely be left with any intelligent American audience, and so I now leave it with you,



CHAIRMAN WHITNEY: Ladies and gentlemen, I think we are indebted, as I predicted we would be, to Professor Fairchild for his able address. He is always guilty of clear thinking, and always puts his thoughts in a way we can all understand. Therefore I venture, on your behalf, as well as personally, to thank him for coming here today and for giving us so much light on this subject of immediate and intense interest.

President Walsh desires to make some announcements, and then there will be opportunity for discussion.

MR. WALSH: By referring to the programme you will find that one feature of the third session, on Thursday morning, provides for a round table and question box, covering duties of local taxing officials, to be conducted by Mr. Lewis K. Rockefeller, Deputy State Tax Commissioner. It has been the custom to have a question box, in which questions may be dropped, and I suggest that all questions be put in writing and given to the stenographer here. It will facilitate the work, and you will get better results than by merely shooting questions at Mr. Rockefeller from all sides.

I have another announcement. I have heard it referred to many times, and even today, by speakers referring to the troubles and responsibilities of assessors, how they receive so much blame for this and that, and no credit for meritorious work. I have heard assessors claim it is very hard to do the right thing and still retain their positions. We have with us today a man who can lend great light to that question and who should be an inspiration to young assessors. It is worthy of note, I think, and I take pleasure in announcing that we have in this conference, from Essex county, town of North Hudson, Mr. C. Armstrong, who has been an assessor for fifty-two years. The conference extends its best wishes and felicitations to Mr. Armstrong, and speaking for the Tax Commission, I will say that we are prepared to present him with a memorial on his one hundredth anniversary.

We also have as a member of this conference one who is enjoying unusual distinction at this time, but a distinction of which she will soon be robbed. We have as a member of the conference, from Rensselaer county, city of Troy, Miss Margaret M. Gravatt, said to be the only lady supervisor in the State of New York, and we extend to Miss Gravatt our felicitations and congratulations.

I want to emphasize the importance of tonight's session. As you will note by reference to the programme, its features are a joint or combined session of the New York State Conference of Assessors, New York State Tax Commission, New York State Tax Association, and New York State Conference of Mayors and other officials. We shall all combine tonight, and use the Assembly Chamber for our meeting. We shall be favored with papers by Senator Davenport, Mr. Saxe, Mr. Fertig, who visits us from Pennsylvania; and we hope by Professor Thomas S. Adams of Yale University. This will probably be one of the greatest meetings of this character which has yet been held in this State.

MR. WHITNEY: The conference is now open for discussion of the addresses, and we will be glad to hear anything that may be said.

If there are no further announcements, if the Secretary has nothing to impart, and as it is now a quarter to 5, I would suggest we adjourn, so we can be on hand promptly in the Assembly Chamber tonight at 8 o'clock. It would be well if we could all be there at ten minutes before 8, so we can start promptly.

Adjourned at 4:45 P. M.

Secretary Casey made two counts of the house, and reported 540 on the first count, and 560 on the second, in attendance at the first session.

## SECOND SESSION

MARCH 2, 1921, 8 O'CLOCK

Assembly Chamber, State Capitol Building

Combined sessions of the—

New York State Conference of Assessors

New York State Tax Commission

New York State Tax Association

New York State Conference of Mayors

Hon. M. J. WALSH, President, State Tax Commission,  
presiding.

Preparing a Foundation for a Real Tax System, Senator  
FREDERICK M. DAVENPORT, Chairman, Special Joint Legis-  
lative Committee on Taxation and Retrenchment.

Centralized Tax Administration, Hon. MARTIN SAXE,  
former President, State Tax Commission.

Results of the Investigation by the Tax Revision Com-  
mission of the State of Pennsylvania as to Simplification  
of the Laws for the Assessment and Collection of Taxes,  
Hon. JOHN A. FERTIG, Assistant Director, Legislative Ref-  
erence Bureau, State of Pennsylvania.





## SECOND SESSION

Second session, convenes at 8:15 P. M., March 2, 1921, Assembly Chamber.

CHAIRMAN WALSH: Ladies and Gentlemen: This is a combined session of the New York State Conference of Assessors, New York State Tax Commission, New York State Tax Association, and New York State Conference of Mayors, and other officials, for the purpose of discussing matters of interest to the members of those associations. Taxation is an important and interesting phase of the work of members of all these organizations, and, in theatrical parlance, we are fortunate in having a strong card tonight.

The conference is fortunate in having as its first speaker the Honorable Frederick M. Davenport, Chairman of the Committee on Taxation and Retrenchment in the Senate, and Chairman of the Joint Legislative Committee which has been studying the tax question in the State for the past seven years.

It is my pleasure to introduce to you Senator Davenport.

# PREPARING A FOUNDATION FOR A REAL TAX SYSTEM

SENATOR FREDERICK M. DAVENPORT

*Chairman Special Joint Legislative Committee on Taxation  
and Retrenchment*

Commissioner Walsh, Ladies and Gentlemen: There are men here tonight to make addresses. I am here to make a very few preliminary remarks. The committee asked me for a topic, but in the stress of these strenuous legislative times I had almost forgotten what it was. "Preparing a foundation for a real tax system" is what we have been at in this State for the past seven years, and it is about that that I wish to say a very few words at the beginning tonight.

I sometimes think that the tax system of the Empire State has a worse name than it deserves. I think, as we look back on the whole history of the attempt to get fair and just taxation in this State, that there has been a rather normal and continuous striving for justice and equality, although I am frank to admit that it has been very slow in some periods. But in recent years we have seen rather rapid changes for the better. In general, I think it fair to say that throughout the history of the State, the development of the State tax system has followed pretty closely on the heels of the vast economic and political changes which have taken place in the last one hundred years, during which century New York has grown from a sparsely settled agricultural commonwealth to a rather densely populated industrial and commercial state. In the transition, new types of wealth have been created; enormous reservoirs of intangible personal property and tremendous corporations have arisen; the entire banking system has been erected. The vast extension of the direct and regulatory services of the State and local government have not only increased the demand for public revenues, but have also changed the character of government.

Now, these economic, social and political changes have resulted in a gradual development of the tax system of the



State, and it is interesting to consider what that development has been. As every one here knows, the original general property tax was gradually extended as new types of property developed. When corporations arose, the effort was made to tax them like individuals. Intangible personal property, represented by stocks, bonds, and mortgages, was treated like horses and cattle as far as taxation was concerned. When the new salaried and professional classes arose, the effort was still made to distribute the tax burden on the basis of property ownership, although these groups held comparatively little property. From time to time changes were made in the tax system to fit it to the new conditions. In 1823, corporations were specifically recognized for purposes of taxation, and were to be assessed upon their real estate and capital stock. In 1853, it was also provided that corporate surpluses should be taxed. In 1860 and 1881, very extensive changes were made in the tax system as a means of requiring the corporations to pay a greater share of the tax burden. The annual franchise tax on corporations was imported from Pennsylvania in 1880, and as a part of the same tax reform movement, franchise taxes were placed upon transportation, transmission, and insurance companies. The franchise tax upon public utilities and elevated railroads was added in 1896. The inheritance tax first went into effect in 1886. In 1899, the tax on special franchises was established as a result of Governor Roosevelt's personal pressure upon the Legislature and the public demand for the adequate taxation of the right to use the streets. The bank stock tax, enacted in 1901, removed bank stock from taxation under the general property tax law. In 1905, the same policy was adopted with regard to mortgages, and a recording tax was established in place of their taxation as personal property. The next significant change in the State tax system came in 1917, with the establishment of a tax on manufacturing and mercantile corporations, based upon their net income in lieu of personal property and capital stock taxes previously imposed under the general property tax. In 1919, this tax was extended to include all domestic and foreign corporations except those

already taxed under certain provisions, holding companies and real estate companies. Finally, in 1919, the personal income tax was adopted.

Through all this period new taxes have necessarily been devised to meet new kinds of property and new demands, or to reach new social groups and thus to secure a fairer and more equitable distribution of the growing burden of taxation.

For the past several years, now, it seems to me that we here in New York have made as much progress as any State in the Union toward the establishment of a modern tax system. We are all keenly aware that many changes are still needed, but the time has suddenly ripened for the speedy establishment in the State of a genuine tax system. The reason for that seems to lie in what is tritely spoken of as the psychology of the time. I have noticed for several years a change in tendency on the part of great groups of individuals who formerly had thought that tax legislation was something to lobby for or against without much regard to the actual merit of the legislation or its effect upon the general welfare. It seems to me that there has been a very great change around this Capitol in this direction as far as taxation is concerned. Interested groups and persons do not exert, I think, the activity in these matters that they did only a short time ago, and there is greater inclination on the part of everybody, individuals and corporations alike, in the State to believe, and act on the belief, that in matters of taxation at least everything ought to be on the merits.

The great pressure, as I said, by groups and individuals upon the Legislature to make alterations for certain specific purposes, perfectly honest in a great many cases, has very much lessened. The last great struggle was over the question as to whether there ought to be a mortgage interest exemption under the personal income tax. There were a great many persons interested in bringing that about who were honest, but they looked at the whole broad question from the standpoint of their own particular interest.



Now, many of you know that I have a side partner, named Judson, who hails from Monroe county; and you know, too, that he is chairman of the tax committee in the Assembly. He has developed an experience which has made him on all matters of this sort as cruel as the grave, and he has given me an inhuman education until I have developed or imbibed some of that quality myself. We have grown up together to be a terrible pair to go up against on matters of this particular kind — when any group or interest wants something more than it ought to get. We thought, in the matter of mortgage interest exemption, that while there were many people who were honest and sincere in their advocacy of the measure, it was a thing which ought not be done. If it were done only by the State of New York, it was not adequate to help in the housing crisis; and the ultimate object on the part of a good many persons was to extend the exemption also to the Federal Government, resulting, finally, in the exemption of mortgage interest on something like *twenty-five billions of dollars* of mortgages in the United States. If it were done in the Federal Government, it might have some effect upon funds that would go into the building of houses. With something like fourteen billions in the exempt area now in the Nation, to add twenty-five billions more of this sort of exemption seemed to us to be a thing that would strike hard at the tax system of the country, and would result in the very opposite that the men who are for it wish, because the extra burden would go where all extra burdens go in this country, and that is on real estate. So it seemed to us that it was from every standpoint the wrong thing to do, and that we should close up all over the United States all the tax exempt areas that we possibly can, so that there would not be any easy channels into which investments might flow, when they should be flowing into bond and mortgage for building purposes. (Applause.)

In other words, if we had our way, we would get a constitutional amendment started so that the Federal Government could tax municipal and State bonds, and we would



tax our own municipal and State bonds — that is, the interest on income from these securities — because we have begun to find out, even among the mayors of our city governments, that the tendency that we used to notice, to desire exemption of taxation in order to make it easy to secure loans is passing out of the minds of governmental officials in the city. They would like some kind of policy so that it would be harder for their city governments to get loans at a time when we have got to be careful of the amount of loans which we continue to pile up in the city and State. So it is time to close up tax exemption areas instead of adding to them.

Now, there are some things that are still wrong. I think Commissioner Merrill is right when he says that when you get right down to it, the greatest injustice in the tax system of the State of New York, the greatest wrong at the present moment, is inequality. When you reckon that something like 70 per cent of all taxes, local and State, falls on real estate; and when you reckon that we have a system of public utility taxation that is not only complicated to the last degree and probably decidedly unjust to the utilities and the State itself; when you reckon that we have not had any central point of vision from which we could study this problem of equality, day by day and month by month—how, in all directions in which we are conducting taxation in this State, the principle of equality might be best applied; and we do not know exactly whether this particular kind of property or that particular kind of property is or is not paying its fair share—I think you will agree with me that the next thing we have to work out in this State is to secure, if possible, far greater equality throughout our whole system of taxation; and one of the splendid things about the reorganization of all taxation and revenue collecting agencies in the State will be the opportunity of men who have ability and will have the opportunity to make use of their information to determine by experience exactly what “equality” means as between the great classes of property in this State; and I think the unity that is coming through the reorganization will have that as one of its greatest effects.

Of course we have other things to study. Are you going to increase the personal income tax rate? My own notion is that the rate should be kept just as low as it can be kept; that we should keep out of the act from henceforth all that will savor of exemption, and that we ought to use the act more than anything else as a direct connection between every individual citizen and the State; to make every citizen feel that he is paying taxes justly, and that he has a direct interest in the government of his State.

To summarize five important points:

1. The State Constitution should be amended so that provision may be made for the equitable assessment of railroad and other property which because of its nature cannot be satisfactorily or equitably assessed by local officials.

2. An amendment of the State Constitution should be obtained to permit of the reorganization of the equalization machinery.

3. The taxation of tangible personal property should be considered in relation to the personal income tax and not through the direct property tax, which should then be amended to exempt tangible personal property.

4. Cities should be authorized by law to reorganize their assessment offices along improved lines.

5. A uniform date of assessment should be established throughout the tax districts of the State.

All these things are in process of consideration; but the greatest advance, I think, is the advance that is now being made of getting together under one roof these great bureaus and divisions of the taxation and revenue collecting functions of the State government. You understand, of course, that there is a bill now on third reading in the Senate, and an identical bill on second reading in the Assembly, whereby the bureaus that formerly were in the Comptroller's office for the taxation and revenue collection; the bureaus formerly in the Secretary of State's office for the licensing of automobiles and the collection of the fees; the bureaus that formerly were in the present State Tax Department, are all amalgamated under the one head, the State Tax



Board; and the plan has been not to establish the strict, absolute, central administration of one man, although the chairman of this board theoretically has more power than the other two members have; but to have a board of three men. We felt that if there was one thing we have developed in the taxation system of the State of New York it is the natural human connection between the great body of local assessors, as is evidenced by such a meeting as this tonight, and a number of commissioners, that that human relation is of great value in working out the whole problem of taxation in the State government. And so for this and for other reasons we are to have a tax board, not a single central administration head.

Of course there are other reasons. We know that there must be in a single authority a good deal more efficiency and probably a good deal of economy as compared with a system of special bureaus, each one over-extending its function and activity, as bureaus have a way of doing where there are six or seven or eight such bureaus. In such conditions you are not apt to get the economy and efficiency of a single bureau such as we hope to have now. And then, one of the great difficulties has been, in our administration of the tax and revenue collecting system of the State, the tendency to employ the element or factor of political patronage to a degree that, under a single head, probably will not take place to any such extent. We have had pointed out to us already by the present Comptroller the chance for a saving in the Comptroller's office itself, under the new system, even if it were not taken over into a central tax board, of something like \$500,000 or \$600,000 every year; and so we are going to have this new tax board, which it seems to me is a very great advance in laying the foundation in the State of New York for a real taxation system.

If there is any board connected with the State government that must be absolutely on the level, it is this new tax board. A great deal depends upon the kind of man who is made chairman of that board by the Governor. We have undertaken in the bill reorganizing these departments that



I have mentioned to write in certain words, calling upon the Governor to appoint men who have knowledge, experience, and skill in tax matters. I know perfectly well that words do not always work out into deeds. Perhaps this is especially true when they are written into the statutes of State government; but whether that is true or not, there is not any doubt in my mind that what we want to develop under this new State tax board is a genuine, powerful, sound tax tradition, absolutely on the merits, and having no other function whatsoever. There ought to be kept out of it to the last degree anything that savors of the political patronage factor. You can understand how powerful this board is to be.

If the Comptroller's department could nearly make a Governor; and the Secretary of State's, also! This new engine might make almost the president of a league of nations? There never was a time, not only on the merits of the system itself, but to insure the safety of the political and governmental system of this State, when the finest condition of rectitude and ability and merit should apply.

I hope I have said enough to indicate to you that I think that in this State the movement toward a genuine, real tax system is a powerful movement, and that we have the opportunity now that we have never had before to establish as fine a tax system in the State of New York as there is anywhere in these United States of America.

MR. WALSH: To justify my early prediction that we had a fine treat in store for you, we have another gentleman, in the person of the next speaker, who had much to do with the creation of the State Tax Department in its present form.

It is my pleasure to introduce the Honorable Martin Saxe, former State Senator and former President of the State Tax Commission.

## CENTRALIZED TAX ADMINISTRATION STATE AND LOCAL

HON. MARTIN SAXE

*Former President State Tax Commission, New York City*

Mr. Chairman, Ladies and Gentlemen: Frequently things unpopular at first blush become popular when understood and appreciated. And so the subject which I shall approach and develop this evening will bring me to what I think is an unpopular proposition for the local assessors at this time. But the day is going to come when I think even the local assessors will support the proposition of a local centralized tax administration.

I first want to say a few words about state centralized taxation. I feel that I had a little something to do with the development of the idea of centralized state administration. Back in 1915 I called the attention of Governor Whitman to a plan for consolidating the various tax functions of the State, then reposing for a considerable part, as at present, in various State departments; and there are some here in this room tonight who can recall the great struggle at that time with the Legislature, and which movement resulted in bringing over only the corporation tax bureau from the State Comptroller's office. The State Comptroller, by reason of the tax functions attached to his office, was in position to command a great deal of respect from the Legislature, and perhaps to administer a little forceful persuasion in support of his notion that his functions ought not to be disintegrated. And so, as Senator Davenport pointed out, it may be that the new proposed tax commission, with all the functions centralized in that department, will be able to accomplish a good deal more along political lines, if such a thing were attempted. But I concur with him in the hope that the new state tax commission will not, under any circumstances, attempt to use political influence. It would be disastrous to the idea of



centralized tax administration, and the thing would be destruction of itself if such deplorable results obtained.

As I said, the movement for centralized administration started in 1915 by bringing over the corporation tax bureau from the Comptroller's office. The transfer of the other functions which were advocated at that time had to be abandoned because of lack of votes — to be frank with you, in the Legislature. And so I was very much pleased when I saw the present Governor of the State announce that he was in favor of carrying out the idea of centralized tax administration for the State, particularly so because in that year 1915 I was a delegate to the Constitutional Convention and chairman of the committee on taxation, and that body advocated a real state tax department, just as it also advocated various other state departments for discharging the different functions of the state government, and providing that those departments should be made constitutional departments, so that they could not be ripped apart and destroyed by political exigencies in the future. However, as you know, the Constitution of 1915 did not meet with favor. But gradually, gentlemen, the provisions of that instrument will come into effect. Some of them are on the way, and in time most of the recommendations of the Convention of 1915, in my opinion, will come into the fundamental law of our State.

You all understand the new state tax department will not alone have the administration of the corporation franchise tax, the mortgage tax, the transfer tax, the special franchise tax and so forth, including the collection function; but any other new methods of taxation which may be developed will be lodged in that department. In other words, there will be no more — as a result of this department — passing around of tax functions to other departments in order to meet political situations of the moment. The foundation of the State's tax system will have been so well established that the future will build upon that foundation and not upon other departments of the government as



far as tax administration is concerned, and that is as it should be.

It is very interesting, as you start to look back over the development of state administration of taxation, and realize that in the old days, when we had a state board of assessors with merely the function of equalization to attend to, to see how the idea has grown from that time, and how the development came about. When Governor Roosevelt proposed the special franchise tax there was a serious question raised as to where the exercise of that function should be placed. Some said that it ought to be with the local assessors; but it was contended that here was a class of property that required technical knowledge to assess properly. It was a class of property that in many instances ran through a great number of tax districts, and it would have to be assessed properly as a whole in order to be assessed intelligently at all; and so it was finally decided to put it into the hands of the state board of tax commissioners, which was the successor of the old state board of assessors. And then the state board of tax commissioners began to grow a little, taking on the mortgage tax when that came along; and then afterward, in 1915, as I explained, the board was reorganized, and the State Tax Commission created, the nucleus of the state tax department.

There was a very interesting thing in connection with the special franchise tax law, which will bring me to the situation of the local assessor. The corporations interested in the defeat of the Ford bill, as it was known, thought it would be a good idea, in order really to lay the foundation for a point of law that could be raised afterward in an attack upon the constitutionality of the law, to provide for a centralized assessment. While they believed that was the only way to handle the administration of the tax, their real reason, I believe, was to provide a point through which they could ultimately attack the whole law. That was on the theory that you could not take away from the local assessors the right to assess real estate, and as you will remember, that law made "special franchises" real estate; and so they

conceived the idea that if this power of assessors over that kind of real estate was put in a centralized body like the state board of tax commissioners, that the law might be urged to be unconstitutional on the ground that it was taking away powers from the local authorities preserved to them by the Constitution. That very question was raised in the suit that was brought to test the constitutionality of the law, but the Court of Appeals got around the proposition very neatly by pointing out that "special franchises" were a new kind of real property, unknown at the time of the adoption of the Constitution. It was a kind of real estate that was manufactured by the law, and was not known before that time, and, therefore, as such could not have been within the jurisdiction of the assessors, nothing was taken away from the local authorities; hence it was perfectly constitutional to place the assessment function in a state board.

I always thought that decision rather peculiar, in light of later decisions, because I believe, as a lawyer, that when the Court of Appeals says a law is constitutional that ends it; but still I always thought it was kind of peculiar, that if you could not take away from the local assessors any of the functions with respect to the assessment of property which they enjoyed at the time of the adoption of the Constitution, to note that the courts upheld other tax laws which took away, true, only pieces of the functions of the local assessors, but nevertheless took something away.

For instance, take the mortgage and investment tax laws. Certainly mortgages and other securities existed at the time of the adoption of the Constitution. They were personal property, and were assessed by the local assessors; and yet the State exempted them under the mortgage and investment tax laws from local taxation, by putting a state tax on them; and, as I pointed out in the Constitutional Convention of 1915, it seemed to me that there was an indication of a possibility of the State accomplishing by indirection what the Constitution directly forbade, because if it is sound law that the functions of a local assessor which



he had at the time of the adoption of the Constitution could not be taken away, you can see how that might be done by exempting from local taxation and putting a state tax on, administered by state officers in lieu thereof. That was very thoroughly debated in the Constitutional Convention of 1915, and I think had some effect in lending support to the tax article which was adopted by that body.

That brings me to the question of centralized local tax administration. And I have brought with me tonight some remarks of mine that were printed in the proceedings of the second conference for better county government, held at Syracuse in December, 1916. I am going to refer to those observations, because I find that on the programme tonight I am to be followed by Mr. John H. Fertig, Assistant Director of the Legislative Reference Bureau of the State of Pennsylvania, who is going to tell us, I have reason to believe, what they are contemplating in our great neighboring State along the line of local improvement tax; and I think that he will have something of particular interest to the local assessors. And so, with your permission, I am going to repeat to this gathering some of the things that I said nearly five years ago in an address before the better county government conference. At that time I was emphasizing the advantages of this county plan of tax administration, and I said—

“As the name implies, the county plan comprehends a central authority for the county unit in the assessment and collection of taxes for all purposes within the county; providing an official assessment roll for the county upon which all taxes levied within the county are based, to the end that the assessed value of the property situated within the county unit shall be the same for all tax purposes.

“Experienced tax administrators the country over decidedly favor the county system. Comparative studies of the two methods show that the town plan possesses all the disadvantages of the small unit for tax administration, while the county plan permits of



an efficiency in administration in every direction which can only be achieved through the use of the larger unit of jurisdiction. Under the general property tax, the assessment of property is of prime importance if equal justice to all taxpayers is to be attained. By dividing your state into small tax district units you cannot practically reach the desired results."

That brings us to the equalization problem, of which you gentlemen are pretty well informed. And in that connection I want to read the report made in 1916 by a special sub-committee of the equalization committee of a county board of supervisors, and which I read at that conference, as follows:

"The report of your special committee on equalization, appointed pursuant to a resolution adopted at a meeting of the board held January 11, 1916, is herewith submitted:

"Your committee has proceeded on the supposition that it was the intent of the resolution providing for its appointment that it should gather data and information which would be of use to the equalization committee and the board in equalizing the assessments between the several towns of the county.

"For the information of those members of the board who are serving their first year as supervisors, and for the information of the citizens of the county in general, we deem it proper to review briefly the history of equalization in this county during recent years. For a number of years prior to 1910 the equalization of the county was made with little or no information upon which to base a proper and correct equalization. Having no accurate data to work with, the temptation was strong, and was usually too strong to resist, for nine of the supervisors to combine against the remaining eight and equalize the county for the benefit of nine of the towns at the expense of the other eight, with little or

no regard to justice. The amounts taken from and added to the towns were usually insignificant, and the principal result accomplished was to leave eight supervisors feeling that they had been unjustly imposed upon while the other nine became puffed up with arrogant pride because they had 'taken care of their towns.' As the changes thus brought about made a difference to the towns of from \$50 to \$500 only, the whole performance verged upon the ridiculous. Since 1910 the board, having no accurate information upon the subject and knowing that all of the towns were under-assessed, and realizing that the bad feeling engendered by the foolish equalizations of the past interfered with other legitimate work of the board, has taken the position that the only thing to do was to consider all the town as equally under-assessed. Therefore, there has been no equalization for the six years last past.' "

You gentlemen know that that is not a very unusual situation. Undoubtedly there are many instances of the same sort in different parts of the State which could be found if they were looked for.

Mr. Charles J. Tobin, who was formerly counsel to the state tax commission, has made a practical suggestion which I think is a very excellent one for improving the work of equalization committees provided for by the tax law. His suggestion is that the equalization committee appointed by the board of supervisors should sit as a board of review, or as an appeal board on the assessments made by the local assessors. That would give the taxpayers opportunity of appealing to another body than the one which made the assessment on the property in the first instance, and would give the equalization committee first hand knowledge and information in regard to the assessment conditions in the various towns in the county, so that when they came to act officially as commissioners of equalization they would have of their own knowledge the kind of information that



they ought to possess in order to make a fair equalization of the county.

Delinquency in equalization work is not limited to county boards of supervisors. During the time that I was a member of the state tax commission, and so ex-officio a member of the state board of equalization, I never signed an equalization table; and I am frank, because I made no matter of it at the time—that I did not believe that the equalization table that was finally voted for by the majority of the members of the state board of equalization was a true and accurate table. Some members of the state board of equalization, like members of the board of supervisors, have a weakness for their friends at home, and notwithstanding the fact that we had established a bureau of local assessments and equalization in the state tax department charged with the duty of getting the information that we required in order to act intelligently on state equalization. So somewhat regardless of the information that was brought in by that person, some of the members of the state board given to the weakness, that very human weakness, I admit—of thinking of their friends at home—would suggest rates for their counties for which I individually could see no justification, in the light of the information gathered by the local assessment bureau of the state tax department; and for that reason I never signed an equalization table while I was a member of the state board of equalization. I do not want that to be taken as a reflection on other members of the board. It is a matter of difference of opinion, and I have my own opinions about how I, individually, should discharge a duty when I have one imposed upon me, and I do not ask anyone to accept my view. I take it only for myself, and limit it there.

I have indicated that I was taking the unpopular side here tonight by advocating the county plan of local tax administration. But, gentlemen, I honestly believe that it is the real solution, the permanent and final solution of equalization trouble. Take the city of New York: There we have five boroughs assessed by one board. We have no



equalization problem, and yet we assess by far the greatest part of the real estate values in the State of New York. We have no equalization troubles whatsoever. There is no reason why there should be any necessity for equalization under a proper administration, and the only way to get that administration locally, so far as real estate is concerned, is by adopting the county unit or having a board for the county; and the first step in that direction, in my opinion, is the recommendation of Mr. Tobin — let the equalization committee appointed by the board of supervisors be authorized by law to act as a board of appeal or review on the assessments of the town and village boards.

But you need not be disturbed, gentlemen, because before there can be put into the law of this State a real board of county assessors we have got to have a constitutional amendment. We have got to get away from the proposition of the so-called "home rule" provision which preserves the power of the local assessors and which cannot be taken away from them. And I hope that you will look beyond your job as local assessor; you will look farther and see the advantages which will accrue to the localities throughout this State by having the right kind of a local assessment system; and I expect one of these days to see the body of assessors throughout this State the real force and spirit behind a proposed amendment to the Constitution which will make that change in the system possible and then permanent for all time. I appeal to you, gentlemen, to look **beyond your** offices as local assessors and to take the positions of sincerely, patriotic citizens in the betterment of the State and advocate that which is for the best interest and welfare of all the people.

Thank you, very much.

MR. WALSH: Senator Saxe retired from the State Tax Commission too soon to enjoy the privilege of signing an equalization table, for at the last session of the state equalization board, an equalization table was unanimously adopted, which carried out, without change, the recommendations

made by the bureau of equalization and assessments of the state tax department, for, I believe, the first time in history. The state board of equalization is getting away from the log rolling referred to, and have come to a scientific working out of facts as the figures show them to be.

I am sure it has been interesting to us all to hear from the gentlemen interested in matters of taxation at home, and I am also sure it will be of interest to hear what our neighbors are doing. We have a gentleman here tonight well fitted to let us know what one of the other great States in the Union is doing. Mr. John H. Fertig will now address us on the results of the investigation by the state tax commission of the State of Pennsylvania. His subject is "Results of the Investigation by the Tax Law Revision Commission of the State of Pennsylvania as to Simplification of the Laws for the Assessment and Collection of Local Taxes," and it gives me great pleasure to introduce Mr. Fertig.



RESULTS OF THE INVESTIGATION BY THE TAX  
LAW REVISION COMMISSION OF THE STATE  
OF PENNSYLVANIA AS TO SIMPLIFICATION  
OF THE LAWS FOR THE ASSESSMENT AND  
COLLECTION OF LOCAL TAXES

Hon. JOHN H. FERTIG

*Assistant Director, Legislative Reference Bureau,  
State of Pennsylvania*

GENTLEMEN: It affords me great pleasure to be with you tonight, and to talk to you briefly about the conditions in Pennsylvania. After listening to the two splendid addresses with which we have been favored, I feel as if I might readily omit what I had intended saying because both of those speakers have so clearly explained the very vital proposition upon which I had made up my mind to talk to you tonight.

Several weeks ago Mr. Holcomb, the Secretary of the National Tax Association, during some correspondence, asked me whether I would come to New York and talk to this conference about what we were doing in Pennsylvania. I agreed to come over here, but had I known that he was going to call upon me so shortly I should have declined the invitation, because it so happens that at the present time we are going through a legislative session in Pennsylvania, just as you are in New York, and the bureau with which I am connected is busily engaged in drafting the legislation which the legislators seem to feel is necessary to cure the ills and diseases of the commonwealth. Again, when I received a copy of the programme I felt like staying at home, because when I looked at the length of that subject I thought the same thing might be accomplished if I would ask the chairman of the conference to read that subject to you. I felt that after reading the title to an address as long as that, that I might be unable to live up to my paper reputation.

Nevertheless, I want to talk to you about my experience during the last year in connection with the "Tax Law Revision Commission" of Pennsylvania, which was created



by an Act of Assembly of that State during the year 1919. That commission had a number of hearings throughout the State of Pennsylvania, and many executive sessions, and the result of its deliberations has taken the shape of a legislative bill which has been introduced in the House of Representatives.

Possibly the best way for me to bring to your attention the things which that bill hopes to accomplish is to review, shortly, the situation in Pennsylvania with regard to our taxes, and our municipal divisions, so that you may become familiar with them and follow me more closely.

Pennsylvania is one of two States of the United States which levies no taxes upon real property for state purposes. The other State, I understand, is Delaware. We do not, therefore, have any state board of tax commissioners or any state board of equalization. Our local unit for the assessment and collection of taxes on real property is the county.

Our state taxes are largely collected by a system of indirect taxes. We have certain taxes on corporations, such as capital stock taxes, gross receipt taxes on certain public service corporations and corporate and municipal loan taxes. Our license taxes on motor vehicles bring large revenues. All these are collected directly by the State Treasurer and Auditor General. Some of our state taxes are collected locally, but not by local taxing officers. Transfer inheritance taxes are collected by registers of wills, and our mercantile license taxes are collected by the county treasurer. We have a small revenue derived from a tax on writs and wills and deeds and mortgages which is paid to the proper officer at the time that the process is taken out or the instrument recorded. These are the only state taxes which are collected locally.

As I said before, the local subdivision or unit for taxation purposes is the county. In the county we have three subdivisions: cities, boroughs, and townships. The cities and boroughs are incorporated districts, while the townships are merely road districts. We have another local taxing authority, which is the school district. That differs from the districts in New York, in that every one of the municipal dis-

tricts is also a school district. There is no overlapping of municipal or county lines by school districts. We have locally five districts, and all these collect practically their entire revenue from a tax on real property. About the only local tax which is not collected on real property is a county tax upon intangible property, such as judgments and mortgages and certain shares of the stocks of corporations in the hands of individuals which are not taxable for state purposes.

One of the first things that this tax commission took under consideration was the duplication of assessments. Every county in the commonwealth of Pennsylvania makes a county assessment, and upon the basis of that county assessment, borough and township and school district taxes are collected. The cities of Pennsylvania all make separate assessments for city purposes. That separate assessment came about some years ago through an under-valuation by the county authorities, with the result that the cities were so handicapped in securing sufficient revenue that they were obliged to appeal to the General Assembly to permit them to make their own assessments. Now, that assessment which the General Assembly then authorized is the very thing the commission seeks to get rid of, because it is a duplication and an unnecessary effort.

The trouble with our county tax system, I apprehend, is practically the same trouble that you have in New York. We do not have any equalization; we do not have any equality; we do not have any equity in our county assessments. I will give you a few instances with which I am familiar.

I happen to be personally a property owner, in a small way, in the city in which I live. The property which I own, I will say I paid \$7,000 for a few years ago. Today, due to the increase in the value of real estate, it is worth probably \$12,000. That property is assessed at \$4,000 for county purposes, or about 33 per cent of its value. In the same city in which I live, in the very center of the business district, we had a fire sometime ago which left a



vacant lot. That vacant lot was assessed for \$6,000. The other day it sold for \$66,000, which proves that there was an assessment of less than 10 per cent. Now, that is the situation in all our county tax assessments. There is no equalization. The situation can be pointed out possibly better by taking the matter of the coal valuations.

The place where I live is in the anthracite coal region of Pennsylvania, the city of Pottsville, where those black diamonds are mined which are so costly to the citizens of New York. It is estimated that in Schuylkill county there is in place today forty billion tons of anthracite coal unmined. That forty billion tons of coal is today assessed for county purposes at fifty-eight million dollars. In our neighboring county of Luzerne, which has six billion tons, they have a coal assessment of two hundred and one million dollars — a rate of thirty cents per ton; while we are assessing at the rate of a cent and a half. Now, that inequality exists just as greatly in surface real estate as it does in the case of minerals underneath the ground.

Inequality is due in Pennsylvania, so the tax commission believes, after hearing evidence from citizens, largely to the election of our local assessors. Every borough, every township, and every ward in every borough, and in every ward in every city, an assessor is elected, who makes an assessment for county purposes; and this assessor feels, in making that assessment, that he owes his allegiance not to the county by which he is employed and by which he is paid, but rather to the citizens of the local district which elect him. And the idea that he has before him, and that is always before our assessors in Pennsylvania, is that he ought to make a low assessment because thereby he places the burden of county taxation least upon his district.

Now, that is one of the troubles with our assessments in Pennsylvania we believe can be remedied, and we believe it can be remedied by keeping in office possibly the same assessors that we now have; but instead of having them owe their allegiance to the voters of the particular district, who can come in and sit down with them and say to them, "if



you raise my property above a certain percentage I cannot vote for you," we propose to eliminate that spirit by having a county board of assessors, and instead of having the assessors elected, this board will divide the county into a convenient number of districts and appoint assessors in these districts.

Another peculiar feature which we found in Pennsylvania was that while the law required that assessors should assess property at its actual market value, that when it came to a question of equalization and revision by county commissioners and appeals to the courts, that the same test was not applied. In other words, if a local assessor neglected to perform his duties and assess real estate at market value, it was not the duty of the board of revision or the court to bring that assessment up to market value, but the duty of the board was to see that the assessments in the county were equalized.

This bill that has been introduced contemplates the retention upon the assessor of the test that he shall assess all real property at market value; and then it departs from the present law in that a new test is put upon the board of revision, and also upon the courts of appeals, and that test is that instead of saying that the values are to be equalized, it is their duty to disregard the question of equalization and to bring the assessments up to market value. And the bill goes further, and declares that any assessment at a different rate or at a different price shall be an illegal assessment; and in order to see that the authorities perform their duties, every district which is a taxing district has the right to appeal from any particular assessment or from all of the assessments, and allege wherein these assessments are unjust or inequitable.

I believe that a system of that kind will do much to eliminate our present inequalities in Pennsylvania. Of course we realize that it is a difficult matter to ascertain the market value of property. But there are methods whereby you can arrive at a value which very closely meets the market value of real property. I understand that they

have accomplished that in the city of Wilmington, in Delaware, and that their assessments range from 95 to 98 per cent of the actual value of real property; and that in many cases — yes, in most cases, the assessed valuation of property in the city of Wilmington is the value which is placed upon property for sale purposes. Now, if they can do that in one city, there should be no reason why it could not be accomplished in any other city.

In addition to a chaotic condition in our assessments in Pennsylvania, we have possibly a worse condition in collections for local purposes. In many of our counties every taxing power has a right to have a tax collector. From the preliminary survey that I give, you will remember that a particular piece of property is subject to three taxes — a county tax; a city, borough, or township tax; and a school district tax. Each one of those districts can have its own tax collector, with the result that the citizen is obliged to go to two or three places to pay taxes on one piece of real estate. A representative of The Pennsylvania Railroad Company told us that he had more trouble paying taxes for the lines west of Pittsburgh, in Pennsylvania, than he had in seven other states in which his company operates; and when he makes that statement it is to be remembered, that for local purposes, Pennsylvania does not tax real estate of public service corporations necessary for the enjoyment of their franchises. The real estate of The Pennsylvania Railroad Company taxable for local purposes is very small, and yet this representative made that surprising statement. In some districts this chaotic condition does not prevail. I am happy to say that in my own city things are not as bad as in some other districts. We collect, as in other districts, three taxes; but we have had good public officials there, and they have seen fit to appoint the same man as tax collector for their particular district.

We found this surprising fact, also, with regard to collecting taxes: that for a period of one hundred years we have been paying a premium on delinquencies. All of our tax collectors work on a fee basis, and we pay them 2 per



cent for all taxes which are collected at a discount or which they collect at face, and 5 per cent for all taxes when they become delinquent, with the result that collectors never try to collect taxes until taxes become delinquent. Some person told me that in the capitol city of Harrisburg the collectors made 10 per cent by paying the taxes themselves when a discount was allowed, and then collecting the taxes when they became delinquent thereby making altogether a commission of 10 per cent.

Now, those are conditions that we believe could be remedied, and we think the time has arrived when they should be remedied. The commission has proposed, in addition to a centralized system for the assessment and valuation of property, also a centralized system of collecting taxes. This bill contemplates that the county treasurer shall become the collector of all taxes in the county, no matter by what authority levied. This collection is to be accomplished in this manner: First, there is to be but one assessment. That assessment, when finally revised and passed upon by the board and possibly by the courts upon appeal, is certified by the assessing board to each taxing district, and upon that valuation each district is to make its levy, and to certify that levy back to the central assessing authority. That body is then charged with the duty of writing the duplicates, or books in which the taxes are charged; and those duplicates are to be written by municipal divisions, that is by cities, boroughs, and townships, and each duplicate is to show first the taxpayer's county tax, second his city or borough or township taxes, and third his school tax. At the same time, tax notices are to be written; and these are to be mailed to each taxpayer so as to be in his hands by the time the duplicates are delivered for collection. The commission has fixed the 1st of March as the date of completion of this work, so that by his tax bill, on the 1st of March, a citizen knows exactly what all his taxes will be for the year.

You may think this system is going to be inconvenient to the ordinary citizen. We believe that we have framed



a system which will make it more convenient than it is today. The bill provides that the tax bill shall be so arranged that it may be used as a receipt, and to each bill are attached two stubs to permit of the instalment plan of paying taxes. Any taxpayer can go to a bank and pay his taxes, have the bank receipt for the taxes, tear off the stub which represents the instalment, and forward that stub to the county treasurer for entry upon the duplicate to show that payment has been made. In some districts there are no banks, and in those districts it will be the duty of the county treasurer, from time to time, to send a deputy to make collections. As the collections come to the county treasurer, he is required to make payments to the local districts.

We believe that in addition to a great saving in money, that a system of that kind will not cause any inconvenience, and that it has other important advantages. As a lawyer, I know that in the searching of titles in Pennsylvania in many cases it is almost impossible to find out whether taxes have been paid. You may have a title in an outlying township, and the only way to ascertain whether the taxes have been paid is to inquire of the tax collector. Under this system, the records will always remain at the county seat and will be public records, open to inspection by the public, and any one can tell from day to day whether taxes on a particular piece of real estate have been paid.

I want to mention briefly the question of the collection of delinquent taxes. The commission proposes that all taxes shall be collected within a year, and if not collected within the year that they shall be returned for nonpayment, and each year in June these properties will be sold at a county treasurer's sale for nonpayment of taxes. In this connection I desire to refer to another peculiar condition: In our State it is necessary to exhaust all personal property upon the premises before we can sell real estate at a tax sale for delinquent taxes. At our meeting at Bedford Springs, we had an attorney from the county of Clearfield tell us that he had a tax title set aside for the reason that apples upon

the premises had not been sold. Such laws have left our tax titles in a chaotic condition. The commission proposes to remedy that condition by providing that it shall be lawful to collect delinquent taxes by selling goods, but that failure so to do shall not affect the title acquired at a tax sale.

A legislative committee had a hearing on this bill yesterday, and sat from 10 o'clock in the morning until 7 o'clock last evening. I want to say to you frankly that this tax reform bill is the most discussed measure that has been introduced in Pennsylvania in 1921. I do not believe that it is going to be adopted at this session, but I want to say that if it does not pass at this session, the efforts to have it passed will not cease. And I believe that sooner or later the efforts of this commission will meet with success. Wherever the matter is explained intelligently to the citizens, I find that they are in favor of a system of this kind. At that meeting yesterday we heard a lot of testimony for and against this bill. The arguments against it came mainly from two sources: first, from parties in interest, who were largely tax collectors (I am glad to say that the assessors did not appear and oppose it); second, from our cities, on a false cry of "home rule."

I submit to you, gentlemen, that this is not a blow at home rule, notwithstanding what the cities of Pennsylvania may say. In the first place, as I said in my opening remarks, the assessor, while he is elected locally, owes his allegiance to the county, which is the taxing district, and he is paid by the county, and he should in justice render his services to the paymaster; and second, the abolition of the local tax collector is not a blow at home rule, because he is purely a ministerial officer, a bill collector. He exercises no discretion whatsoever, and to say that the removal of a ministerial officer is a blow at home rule is reasoning that is beyond my comprehension. If that bill had provided that the central authority should take from the local districts the power to make their levy, or had attempted to say how much money should be allotted to their municipal



governments, and how that money should be disbursed, it might have been a blow at home rule. But there is no intention to interfere with those local functions. When that assessment is furnished to the local district it makes its levy upon the assessment, and it determines how much money shall be collected so that its municipal government may properly function, and it determines how the money shall be expended.

Now, we realize that any system of this kind is not perfect, but it can be improved from year to year. Nor are we unaware, as referred to by one of the preceding speakers, of the dangers of a centralized system. A concentration of power frequently leads to abuse. We know that the human element always enters into matters of this kind, but we believe that in a majority of instances a system such as this would be judiciously administered and would result in great benefits to our local communities.

I want to close with a thought which I used the other night in speaking to some citizens who had taken action against this bill. On a matter of this kind you can take only one of two positions. You can be for the legislation, or you can be against the legislation. If you are perfectly satisfied with present conditions, and you think they are just and equitable, you should be against any change. If you are not satisfied with present conditions, and this applies to any legislative programme which is of a constructive nature, then you should take one of two positions. First, you should either support that constructive legislative programme which has been proposed; or second, you should be in a position to offer something better.

I thank you.

MR. WALSH: Two years ago, Mr. Fertig's reference to the 6 per cent and 10 per cent valuations would have struck me pretty hard. But now, when I think that during the past year, when the State of New York, with a total assessment of about \$14,700,000,000, shows an increase in its assessments of \$2,079,000,000, I almost ask Mr. Fertig, "How

do they get that way?" I am sure we are all very grateful to Mr. Fertig. We thank him extremely for coming here. We have tried to arrange this evening's programme so as to appeal to all elements of the combined conference.

We have next on our list this evening Professor Thomas S. Adams of Yale University. We have not noted the presence of Dr. Adams, and I am in doubt whether he is in the room or not. May I ask?

PROFESSOR FAIRCHILD: He is not here.

MR. WALSH: Tomorrow, you will note, we have two very interesting sessions arranged for, fraught with particular interest to the assessors, and we ask a full attendance. We thank you for your presence and attention this evening, and I declare this meeting adjourned.

Adjourned 9:50 P. M.



### THIRD SESSION

THURSDAY MORNING, MARCH 3, 1921, 10:20 A. M.

COMMISSIONER JAMES D. SMITH, presiding

Effect of War Conditions on Property Values, DELANCEY  
M. ELLIS, Albany, New York

Exemptions from the General Property Tax, WILLIAM  
R. BULL, Westchester County Chamber of Commerce.

Appointment of Committees Announced

Local Assessment Problems, HON. WALTER H. KNAPP,  
Former President, State Tax Commission

Round Table and Question Box

Discussion





### THIRD SESSION

THURSDAY MORNING, MARCH 3, 1921, 10:20 A. M.

COMMISSIONER JAMES D. SMITH, presiding.

COMMISSIONER SMITH: Now, gentlemen of the conference, as we are somewhat late in starting, we will proceed with the regular programme at once. It gives me great pleasure to introduce as the first speaker Mr. Delancey M. Ellis, senior member of the firm of Ellis & Palmer, of Albany, who will speak on the subject of the "Effect of War Conditions on Property Values." Gentlemen, Mr. Ellis.

MR. ELLIS: Gentlemen, when I heard Mr. Saxe say last night that it had been an unpopular day for him, he having been on the unpopular side of the traction question, I kind of felt that I belonged to the Commissioner's lodge, because my observation has led me to believe that the subject I am about to discuss this morning is not an altogether popular one; and for confirmation I refer you to the newspapers and comic sheets for their presentation, or caricature, of the landholder who rents his property. At the same time, I welcome the opportunity to present my views.

## THE EFFECT OF WAR CONDITIONS ON PROPERTY VALUES

DELANCEY M. ELLIS, ALBANY, N. Y.

In presenting this subject I do not desire to make any argument along any given line, but rather to relate here the result of personal experience and observation in order to get before this conference of representative men in the field of taxation some reasons for the unnatural, unusual, and unstable conditions in the realty field, and something concerning the side of the real estate interests in the controversy which has been waged so vehemently of late by the so-called rent paying organizations.

The casual observer confidently says that property values have been materially advanced by war conditions, as he recalls some particular sale of exceptional advantage to the seller brought about by an acute shortage and the property being suitable for a particular purpose, but he does not realize that this single instance, when compared with the entire field, is negligible.

He overlooks entirely the acres and acres of unimproved property which it has been impossible to sell at anything like their pre-war values, and of those hundreds — yes, thousands — of buildings of older types which fall into the same class, by reason of the excessive expenditures necessary to put them into condition for the required purposes by reason of the high prices of labor and materials.

It seems to me, however, that the logical answer to the query is this: If real estate were profitable as an investment there would be no housing problem; and if *actual* values have advanced in accordance with the popular conception real estate *must* be profitable, for it was so regarded *before* the war and therefore should be more so now.

There is plenty of capital waiting for investment, some savings banks are advertising for mortgage money, and all

capital wants is to be shown where the return or profit is; and right there is where action ceases.

Let us consider for a moment the underlying conditions and see if we can locate the reasons for the present situation, brought about by war conditions.

There are three general divisions: food, clothing, and shelter, under which all of the necessities of life are grouped. Why has the production of food and raiment gone on continuously while the production of shelter has ceased almost entirely? Does not the reason lie in the fact that the life of food and raiment, as such, is very short compared with that of shelter? The food we buy is consumed, comparatively speaking, in a day; raiment in a year; but shelter normally lasts for fifty years.

The producer, or I may say the purchaser, of shelter faces conditions differing widely from the others. He must first figure as to whether he can sell at a profit, if built or acquired under the inflated conditions which have ruled during the war period. If he cannot there is danger, almost a certainty, that the receding prices which are bound to come will enable his competitor later to produce or acquire under more favorable conditions, and hence be in a position to undersell him. Furthermore, he must figure whether the rental he must get to make his investment profitable is above the general scale of rentals in the community. In other words, the question of deflation must enter largely into his calculations. The potential investor in shelter has figured that war conditions were against him, and he has decided to wait. And that, in a word, is what has become of building.

The popular eye has been fixed upon the metropolis, where a few — comparatively, a very few — unscrupulous operators have, by reason of the shortage in production, raised rents to an abnormal limit and sold out on the basis of a large fat return; but in those transactions which have come to my notice the actual consideration has been but little above normal pre-war values. The market has been stimulated, but the sale prices which have ruled have dif-



ferred little from the old *asking* prices of the days before the war.

The present holders of these properties, when the supply overtakes the demand, will find it necessary to charge off a heavy percentage when the time of normal rentals comes.

The unfortunate part of it all has been that the publicity given it has arrayed the entire rent paying public against landlords generally, and brought forth legislation which, while perhaps justified under the police power of the State, nevertheless has long since been declared by the wiser heads as unsound; and by its provisions abrogating the right of contract has driven capital away from that form of investment, thus producing the twofold result of leaving the housing situation worse than before, and, in addition deflating values generally.

It would be carrying coals to New Castle to attempt to tell this conference anything of taxation on real estate, but the mounting tax rates of the past four years have surely made themselves felt adversely. Our chief executive sounded the alarm in his message to the Legislature when he said that real estate is now paying more than 30 per cent of its gross return in taxation; and I was very much interested recently to hear the chairman of the judiciary committee of the Assembly, Mr. Martin, in a speech at Utica, make the statement that a year ago there was \$456,000,000 raised for state and local taxation, and of this sum \$348,000,000 was levied directly on real estate. Mind you, this is to say nothing of the taxes on the profits derived from real estate as accounted for in individual income tax returns. This was simply the direct tax upon real estate; and despite the efforts of its friends it is constantly being loaded with additional burdens. The reason is not difficult to find. Real estate is a visible and tangible target for taxation. The machinery for the collection of taxes on real estate is probably the best organized of any tax collecting agency, and the erection of new machinery for the collection of taxes from other sources is troublesome and expensive. Now and then when more money must be raised for the

government some new scheme is tried, but there always seems to be a deficiency which is turned back to be levied as a direct tax on real estate.

While on the subject of taxation may I relate an experience with relation to certain assessments on property containing some rental elements which are not found in the rental elements of ordinary structures. I refer to apartment houses, in the rental of which is not only figured the element of interest on the investment, taxes, insurance, and upkeep, but in addition the elements of heat, janitor, and elevator service, and in some cases light and refrigeration. In the city of Albany, when the assessors' books were last opened for inspection, it was noted that most of such apartment houses had received a very marked raise in assessments, some of them as much as 30 per cent. It appeared that this action of the assessors was based upon the popular feeling that there was profiteering going on in the way of rentals, and that therefore the assessments must be raised to discipline the owners.

The value of investment property is very largely established by its net return. It may have some speculative value, but in my experience in dealing with such properties the consideration for the purchase is almost invariably based upon the net income, which is represented by the difference between the gross rents and the expense of maintenance.

We submitted to our local board of assessors a sworn transcript of our books on six apartment houses in this city, showing that not any one of these properties paid 6 per cent on the old assessment, and in one case it paid but 2 per cent. This, I think, was enlightening to the local assessors, who extended to us the utmost consideration. It simply brings to light one of the difficulties and dangers of assessing on a basis of frontages and facades rather than on a basis of net return.

We indulged in the further contention with our assessors, and I think secured their concurrence, that the old theory that the relative sale and rental values are as 10 to 1, doesn't hold good under war conditions, and that real estate cannot



profitably be rented on such a basis. In other words, that a real estate holder must revise his gross percentage of income in order to procure a fair net return. I am talking now of straight rentals without reference to heat, janitor, and elevator service, above referred to.

In these days of attractive investment in other fields, it is clear that we must show a man 7 per cent net — some say 8 per cent or 9 per cent — on real estate when we figure the chances taken by the owner on changing surroundings and fluctuating demands.

In our city, with a tax rate of \$3.66, to which must be added water rents, insurance, and necessary cost of upkeep, there is no chance of getting our net return unless we fix our rentals at 13 per cent or 14 per cent until conditions materially change.

I have no quarrel with the tax rate. The costs of government naturally have mounted with all other costs. The point is that the people have been voting for uplift, welfare, and improvement, utterly oblivious of the fact that these cost money and that they must be paid for by the people themselves, rentpayers as well as taxpayers alike.

Again, realty would be the gainer if there were a better understanding between the property owner and the lessee; and I have become convinced that the hostile attitude of the tenant is due to lack of information concerning his landlord's problems, and is partly due to the fact that the tenant reasons in dollars rather than in percentages. Some months ago, when all prices were at the high point, my attention was called to some statistics compiled by Babson which showed that in the previous five years the price of clothing had advanced something more than 100 per cent, and food nearly 200 per cent, whereas shelter, or rents had advanced but about 35 per cent.

As I see it, the psychology of the situation is this: A man makes a mild protest when the price of his morning paper is raised from one cent to three cents, a raise of 200 per cent; he is somewhat more vehement when his shoes cost him \$12 instead of \$6, a raise of 100 per cent; but when at the end



of a year's lease he is asked to pay \$85 per month instead of \$75, a raise of less than 14 per cent, he is being imposed upon; or, as in some cases, his raise is from \$75 to \$100 per month, or about 30 per cent, he feels he is in the hands of a robber and a profiteer. And yet reckoned in percentages, the worst that has happened to him with his rent is generosity itself compared with the costs of his other necessities.

With all of this in mind, in the firm with which I am connected, we took pains when making our new leases with tenants to discuss the whole situation frankly with them, calling attention to the percentage question above quoted; but what is more important, laying before them a frank and clear statement of what the properties had paid during the previous year. This put them in touch with the owners' problems, and brought clearly to their attention elements of expense which he is called upon to bear which had never occurred to them. It worked wonders and silenced practically all of the criticism and protest as directed against the owner, and is but another instance that there would be much less trouble in the world if there were fewer misunderstandings.

Yes, real estate has been ill, very ill — but by no means beyond hope of recovery. War conditions did it, and it was unavoidable. The happiness of a great many people rests upon its recovery, and in my judgment no single remedy will bring it about. For some time it will need most tender and considerate treatment from all hands.

The material men and labor can and probably will help when economic conditions force their prices down to a point where production is again practicable. The State can and undoubtedly will help by reducing the expense of government and by further relieving real estate from the overwhelming share of the tax burden it is now bearing. It could help further by easing up many restrictive and regulatory requirements which have sprung up in the past few years under the general head of uplift and welfare.

Local assessors can help by assessing properties upon a basis of normal values rather than upon a basis of

unnatural, unusual, and unstable values, which the war has seemingly brought about. For let it be borne in mind, for purposes of comparison, that a man who bought a carload of sugar in the early days of the war at 10 cents a pound, and still has it, has made nothing, although sugar was selling at 25 cents a pound at one time.

It is simple to trace the analogy to real estate. The banks, insurance companies, and other potential takers of mortgages, can help by adopting an attitude as liberal as their fiduciary responsibilities will permit in the furnishing of money. And lastly, the people themselves, the great army of tenants, can help by recognizing that houses and offices and factories will not be produced on any eleemosynary basis, but must pay a fair return if capital is to be so employed; and they can help further by realizing that the more restrictive and halfbaked legislation that they call upon their representatives in the Legislature to enact into law, the more they will delay the recovery of the patient, and consequently their own happiness and well being.

COMMISSIONER SMITH: The next speaker, Mr. William R. Bull, is chairman of the committee appointed by the Westchester County Chamber of Commerce to investigate property exempt from taxation in that county. Mr. Bull is one of the leading real estate appraisers in Westchester county, and it gives me great pleasure to present him to you.



## EXEMPTIONS FROM THE GENERAL PROPERTY TAX

WILLIAM R. BULL

*Chairman Committee on Taxes and Assessments, Westchester County Chamber of Commerce*

Mr. Chairman and Gentlemen: I am between the devil and the deep sea in addressing you this morning, and the reason for my feeling so is this: I contend that a farmer like myself should not presume to talk to a group of experts on taxation. However, I am here, and you will have to submit for a short time to the few words that I want to say to you on the subject of exemptions.

Now, I was once an assessor. Notwithstanding that my name is Bull, they made a goat of me. (Laughter.) I judge by your response that someone else may possibly have been made a goat of also; and I notice that all the sympathetic laughter that I hear does not come from one man. It seems quite general. It may be that we are all goats instead of experts. (Laughter and applause.)

My experience was this: In one of the villages down in Westchester county the assessment roll was in a bad condition. Property worth \$10,000 was assessed at \$1,500. A little place worth \$5,000 was assessed at \$4,000. Many large properties were assessed for less than the value of the improvements upon them. There existed many such inconsistencies in that tax roll. The powers that be came to me and said, "Now, look here, Bull, we have a tax-roll here that we would like to have you take hold of and correct. We know you do not mind criticism. You are the man to equalize this roll and bring it up to where it should be." Well, I considered the matter, and thought I could see the dark gentleman in the woodpile. Our political friends had gotten the tax-roll into a condition where something had to be done, and no politician wanted to do it as it meant political death.



They came to me to do it. I made this reply to them: "Gentlemen, I do not like political office. I am a business man. I have the courage to do it, but have you the courage to stand for what you are asking me to do after it has been done." "O, yes; we have. You are just the man to do it; it is your civic duty." "All right; I will do it for the sake of the education there is in it, and to do my duty."

Well, I did it one year, and my attempt to put that roll up to where it should be and to equalize it, and to make it somewhere near a fair roll, caused a small sized riot among the taxpayers. Politicians are a very timid class of men. A disturbance among the voters upsets them dreadfully. The consequence was, that my attempt to get some education out of that office was a dismal failure. I served one year; their courage failed them, and they concluded they did not care to bear the political risk of educating me; I was graduated at once, completing my education as an assessor. (Laughter.)

I am further embarrassed, gentlemen; in speaking to you this morning, for this reason: In different parts of the room, over here and over there [indicating], I am looking into the faces of men who hold the power to levy an assessment upon my own property. Now, I tell you this is somewhat embarrassing. There are things that I might say to you if we were out in the back room that I should hesitate to say before them. Nevertheless, I am going to try and forget that those gentlemen are here. I am convinced that every assessor needs the sympathy of the entire community. I know it to be a fact that the average assessor is an honest, conscientious official. But he has a hard row to hoe. The man who tried to suit everybody has been dead some years. (Laughter.) And I do not wish to impose such penalty as that upon any of you gentlemen.

In Westchester county we are peculiarly afflicted, in the matter of exemptions, by our nearness to the second largest city in the world. We have conditions there which probably do not exist to such an extent in any other suburban county, nor any other county, in the entire State. Our county chamber of commerce realized this condition [I am referring

now to the matter of exemptions from taxation; that is what I am brought here to talk to you about] and its effect upon our county. Our county is so situated that we are the natural victims of all kinds of institutions who locate amongst us, demanding exemption. Our chamber of commerce concluded some eleven years ago that we would investigate this subject and see if there was any relief to be had, in an honest, practical manner, without doing any one an injustice.

Now, you will remember, those of you who have taken any trouble to inquire into it, that in the olden days, away back in ancient Greek and Roman times, no taxes were levied. The emperors and the kings, and such rulers as they had, caused the people to pay "tribute." That is the word, you will remember, which seems to be used interchangeably with the word "tax" by the writers of the history of those early days. This tribute was not considered a tax in those times. It was literally a tribute, and that tribute was called for and exacted when the king wanted to rid the territory of a neighboring king, or a baron wanted to go off into the lands of another baron and steal a lot of his cattle and take his movable property. Then they caused a tithe or tribute to be levied for the purpose of defraying that expense. Those of the feudal classes, instead of paying even a tribute, furnished military service, and in furnishing that military service received certain exemptions for themselves and their lands from the governing powers, for the reason that they had furnished military aid to them when they needed it at various times. But in doing all this the theory of taxation, as we have it now, never existed. And finally, as was the custom in those days, the Church — and you will please remember that the Church in those days was really the State — as we know it and recognize it today, the ancient Church came the nearest to taking the place of our present state government of anything that existed in the way of government in the early days.

The Church became so rich in lands that it became stronger than the ruling powers. The king even deferred



to the Church in matters of state. The Church soon came to taking care of the poor, the infirm, and aged, and in that way relieved the state, such as the state was, from that duty; and naturally they began to ask for some remuneration, for some relief, for something to offset the time and expense and trouble that they were put to in taking care of the poor. So the habit of granting exemption from taxes to the Church, it was not a law, became a custom. Sometimes the ruling powers permitted it, and again they did not. The Church held vast areas of land and let them to tenants; sold the produce and received the proceeds. In that way they acquired more land, and increased in wealth from time to time, until, as I am able to state, a large part of the land of the Roman Empire was owned and held by the Church. And until about the twelfth century, even in England, one-third of all the land of the realm was owned by the Church.

As we in Westchester looked this subject of exemptions over, we saw how it affected our whole county, and the Westchester County Chamber of Commerce concluded to take the matter up and make a study of it, not only for ourselves but for the State as well. Many facts and figures were assembled by the Westchester County Chamber of Commerce; and we are still collecting data — the work is not finished. We have employed experts to do it for us and we believe that our data is correct. You can rely on this information; nothing will be stated here except that for which there is historical proof. Our research has covered a period of about two years.

The Westchester County Chamber of Commerce believes that before any new policy in relation to tax exemptions is adopted that we should first know the origin, history, and development of it, as it has come down to us through the ages — the real cause or causes which gave it birth, and the practical effect of the law as now administered. Our committee found that to get at these facts it must not only study the history and origin of tax exemptions but that it must trace them back to their original sources to get at the base and root of the present laws. But we found that practically



nothing had been written in regard to it. That may seem strange to some of you, but it is true, nevertheless, as our experience proves. The first thing our research man, a professor of Columbia University, did, was to comb the libraries for books on the subject. And, Mr. Chairman, I want to say that he found none. Nowhere in libraries in the United States or abroad is there a text book upon the origin, history, and development of exemptions. Not a single volume. And so we must write this history ourselves. And this we have begun to do, employ legal and tax experts; and the result of our research has been astonishing to us, and it will be to the public. Nowhere is such an historical study to be found. It has never before been undertaken. We are now going over this study, gathering statistics which will give us the remaining facts of the problem, and then we intend to publish the whole study, with our recommendations. This will be the contribution the Westchester County Chamber of Commerce will make to the question of exemptions.

We believe that there is no public as intelligent, as clear thinking, as the American public. No question has ever come before the American public since the days of the thirteen colonies that they did not decide correctly. No one can gainsay that statement. And we believe that this matter of exemption, as great a menace as it has become, as great an evil as it has become, when once fairly presented to the public and the real situation is once shown to them, we believe that they will study it and finally demand that the subject be taken up and settled, and when so decided by them it will be right.

Give the public a deeper knowledge of the facts, a more thorough understanding of the original purpose of exemptions, and a programme of tax exemption reform based upon such knowledge and understanding, and the remedy for the condition is certain to be demanded and put into effect; the American people never have demanded anything that they did not get.

Looking into history for the origin of exemptions, we find that in pre-Christian times the care of the poor and

infirm was a government function, which the Greek and Roman states undertook as a public service and obligation. With the foundation of the Christian Church and its establishment in the western world, the administration of charity was taken out of secular hands and rested with the Church. Under the Roman emperors the Church became an extensive landowner, and church property came to be looked upon as charitable property. Among the early Romans, temples and sacred property were assumed to be without an owner, on the theory that it had passed out of the hands of man, that it could not be sold or alienated as it was under the direct control of the divinity, hence it could not be taxed; still, by times it was taxed and then again exempted, depending largely upon the relation of the king to the Church.

Right here I want to say to you that, under the guise of law, exemptions are being granted amounting to vast sums of money in the aggregate for which there is absolutely no justification either in history or in law. Some of it has come about from the fact that the Church — and no man should speak in disparagement of the Church, and I do not intend to because I am a member of it and have been all my life; but I do say this: that when you are looking for human nature, speaking plainly, do not pass by the churches. There is just as much of it in the churches as there is anywhere else. I say this with great respect for all the churches. However great and beneficent the Church may be as an institution, the individual members are swayed by the same impulses as are other individuals. The men who run the churches are human, and I do not blame them for taking advantage of any situation that the public will permit, and that fact accounts for a large part of the difficulty we have before us today concerning exemptions. That is plain speaking, gentlemen; but I say it with entire respect for the Church. That is the fact; that is the condition. It was so in the olden days, and it is so today. I know that when the public authorities are willing to exempt our property we are not likely to go and offer them taxes. That is not like the human, ancient or modern.



I want you to notice, gentlemen, that this whole question of exemption revolves around rendering some public service, such as the care of the poor and unfortunate, and it begins right there. We are all sympathetic, and that, perhaps, is an excuse for this situation having become what it is today. The Church cared for the poor, the infirm, and the helpless in the early days. Its temples and sacred property were without an owner. It could not be sold or alienated, as it was under the control of the divinity. Hence they reasoned it could not be taxed. Still, by times it was taxed, and by times exempted. When it was taxed, the king, or the baron, or those in authority at that particular time and place, needed money. Necessity recognizes no custom. When they needed money they taxed the Church, because the Church was in possession of from one-fifth to one-third of the land of the realm, and the money had to come from the land.

The first tax to be levied on a national scale was ordered by King Henry II of England, in 1188, and was known as the Saladin tithe. In 1199 King John of England crossed over to France to war against the French, and to defray the expense of this invasion he levied a tax on all religious bodies in some form, and repeated in 1201, 1203, and 1204. In 1207 there was much opposition to this tax, and it was one of the causes which led to the long struggle between King John and the barons, which culminated in the Magna Charta being wrung from this unwilling despot on Runnymede field in 1215.

The *dona* (tax) from religious houses were in theory voluntary, but in practice they were compulsory. By 1250 they were taken with regularity. In 1404 the Church barely escaped having all its lands confiscated; and again, in 1422, King Henry V and parliament made an effort to confiscate all church lands. Impending war with France put a stop to the plan. From 1539 to 1545 church houses and lands were confiscated, and church property was quite generally taxed. Many evil memories remain of King Henry VIII, but this is one of the bright spots in his

bloody, tyrannous reign. In 1664 clerical consent to taxation was done away with, and the clergy were taxed with all lay persons by parliament.

After the religious houses were deprived of a large part of their wealth, a part of which at one time was one-third of the land of England, the care of the poor began to fall heavily upon the government. Then it was that public aid began to find expression in granting exemption from taxation to private institutions that undertook to perform this work. Please note that there runs through all the old records upon this subject of exemption, this statement: When the exemption was granted, whether temporary or permanent, it was always upon the theory that the church or the institution or the body to which the exemption was granted was performing some public function for the benefit of the public, which if the private institution did not perform, the State itself would perform and would be to the expense of rendering said service.

The immigration of Englishmen to America did not change their traditions or outlook upon life. The colonists were no less English; a branch of the old tree planted in new soil. All the colonies adopted the English doctrine of providing for the poor and impotent. In 1680 the colonial government reported to the privy council, "It is ordered that each town provide for its own poor." In 1673 this became a fixed policy by legislation. In 1785 the assembly authorized Hartford, Connecticut, to build an almshouse and to levy and collect taxes to support the same.

In 1826 the first public hospital was chartered, and the first hospital for the insane in 1824, no public funds being appropriated for the support of either. In Connecticut there was public supervision but no financial support until 1854. In New York the whole matter of the care of the poor was handled in much the same way as in Connecticut. In 1771 King George III granted letters patent for the erection of a hospital; the Legislature voted eight hundred pounds annually for twenty years, and the municipality gave a large plot of ground as a site. This was the famous



New York hospital, built and maintained by the State, the municipality, and private individuals. Now, gentlemen, this was in 1771. Up until that time the process of exempting these private institutions developed slowly, but the plain inference is that immunity from taxes was granted only for services rendered to the State. The State in substance said to private institutions, "Take care of the insane people at your own expense; take care of the sick, poor, aged, and helpless people at your expense; and we, instead of paying you so much money, will subsidize you to the extent of the taxes upon your property." It was an out and out bargain, with due consideration, and thus far and to that extent was not only a fair bargain, but it was a legal bargain, because there was due consideration in the contract which was perfectly adequate and proper. But we have gone a long, long way from that principle in granting exemptions today. It has absolutely passed away from the original theory upon which it was granted, namely that of rendering a public service to the State which the State was bound to render otherwise. Today exemption is granted because some high priced lawyer approaches the public authorities, quotes a lot of custom, practice, and precedent, and says, "Gentlemen, this is the law." Now, it is not law at all, and never was law. It is simply a custom stretched beyond the confines of law, in a great many cases. He tells us, "It is law, gentlemen; you must do it"; and we are too lazy and too indifferent to investigate and see for ourselves that he has befogged the question. So that institution slips through, another slips through, and so on. I will give you some figures later on showing how many have slipped through, largely because of indifference on the part of the general public.

Gradually the people came to feel that the private institutions took better care of their poor and impotent than did the public institutions, hence more and more of the work was taken over by them. The process of exempting these private institutions developed slowly, but the plain inference is that immunity from taxes was granted only for services

rendered to the public. Columbia College was founded in 1754; Harvard College in 1636; and Yale in 1700. All were started by public grants and private gifts.

There is ample historical justification for the exemption from taxation of charitable institutions which perform a function which the State has from Tudor times in England, and Colonial times in this country, undertaken to perform, namely the care of the poor, sick, demented, crippled, blind, deaf, the helpless aged and young. Likewise there is no historical basis for the exemption of benevolent institutions like the Y. M. C. A., or of fraternal organizations like the Odd Fellows, which perform no function which the State has ever undertaken to perform. It is appropriate for me to say that I have no quarrel with the Y. M. C. A. I am a patron of it. Nor have I any quarrel with any of the fraternal societies. I am a member of many of them. I am stating the facts here, and it is without prejudice. As the State progressively takes on social duties by way of workmen compensation laws, health insurance, and social insurance generally, there is a corresponding weakening of the historical sanction for the exemption of charitable institutions.

That is clear to all of you. The State is beginning to do that work itself in many, many ways, and is still continuing to grant exemption to those who are only partly doing it. Although there was sufficient ground for the exemption of places of religious worship in colonial times, such grounds, because of the disestablishment of the Church during the Revolution, now no longer exists. When the Church was the State, as was the case in the olden days, there was excuse for it. Now the Church is no longer the State, and there is no such excuse for what is being done.

There is sufficient historical sanction for the exemption of educational institutions, but not for parochial or religious schools. There is no justification in history for the exemption of parochial schools or religious schools of any kind. It runs back to the same fundamental principle that exemption is founded on, namely, doing a public service for the



State that the State was otherwise bound to do for itself. Now, the State has never assumed the religious education of its citizens, consequently on no theory whatever can it be claimed that they are performing a state function in doing it.

Where an institution justly entitled to exemption because of its charitable function engages in other activities, such as renting any part of its premises for profit, its claim for exemption not only ceases but there is direct historical precedent for taxing such an institution.

Such are the facts and their relation to the question of exemptions from the historical viewpoint. In the practical operation of the theory as of the present, we have gone much farther afield. In the past, the essential requirement for exemption is clearly shown to be the rendering of a service to the State that the State was otherwise bound to perform, and there is no warrant in history or in law for exemptions for any other cause.

In Westchester county this principle is much abused, and I have no doubt this is also true elsewhere throughout the State. Westchester is a small county, comprising 484 square miles in area. Its population is 344,086. It has four cities and twenty-two towns and villages. And you will pardon me for saying that it is one of the most beautiful counties in the State. Owing to the fact that our southern boundary line is the northern boundary line of the city of New York, and that our territory is so easy of ingress and egress, we are infested with institutions receiving exemption; and more are coming. It is only necessary to state that our total assessed valuation is \$488,215,893, and that of this \$78,296,355 is exempt from taxation, to show the real proportion of this fast growing menace.

It is hardly to be believed, but it is a fact, nevertheless, that in Westchester county alone the increase in exemptions in the last fourteen years has been 104 per cent, the totals being \$32,335,060 in 1906, and in 1920 \$67,049,122. Is any one credulous enough to believe that all of this vast

increase of 104 per cent, and in amount over \$34,000,000 in fourteen years, would stand the only true test upon which exemptions should ever be granted, namely that of performing a service for the State which the State is bound to furnish to its people. It is also illuminating to observe that the total amount of private property exemptions in 1920 exceeded the whole list of exemptions, both public and private, in 1906 by \$1,505,101.

Another illustration: The exempt list of the city of Yonkers for 1920 was 64 per cent of the entire county list of 1906, the actual figures being \$8,328,567 in 1906 and \$21,044,235 in 1920, an increase of 153 per cent. Private property on the exempt list of 1920 is 51½ per cent. of the whole list of the county. It is to be borne in mind that all figures given here are in the matter of Westchester county, but I have no doubt they are typical of the other sixty-one counties of the State.

Now, gentlemen, just carry those figures with you. Our total assessment is \$488,000,000, \$78,000,000 of which is exempt; and that figures out like this in small figures — in every \$70 of tax that a man in Westchester county pays he pays about \$100 to cover the exempt property of others. Practically one-seventh of our assessed valuation is exempt from all taxes. Since 1906 the increase has been 104 per cent. Now, what in the world are we going to do with a situation like this? Those figures, gentlemen, will apply in a practical way to your own counties. Westchester may have more of it than you have, but you have the disease, just as we have; and we have it so badly that it is about time to call the doctor.

I want to give you just a few examples of what is taking place in Westchester county under the guise of exemption from taxes as it is now permitted. Years ago many so-called charitable institutions purchased large parcels of land, and asked for and were granted exemption from taxes on the theory, of course, that they were going to render the public a service free of charge in compensation for the exemption from taxes, and the assumption was that the serv-



ice rendered would equal in money value the amount of the taxes exempted. But in actual practice it does not work out that way in many cases; they do give some free service, but it is in nowise comparable with what they receive in the abatement of taxes.

Then again, when they buy the land they generally buy considerable more than they need or use, and the fact that it is all exempted from taxes increases the tendency on their part to purchase more land than they require, and hold it until a very substantial unearned increment has attached itself to the value of the land, and then sell it. I know of no case on record where any of this increase in the value of exempted lands has been paid into the public treasury.

We have exempted parcels of land in Westchester county, ranging in area from a few acres to forty-six hundred acres, many of which render an insignificant service to the public, others a service wholly inadequate to the benefit they receive, and still others which are money making institutions and are operated on a commercial basis.

In conclusion, my opinions in regard to exemptions are first, that they constitute an unfair burden upon the general commonwealth; and second, that many of the institutions exempted do not perform a service for the public equal in money value to the taxes exempted, hence it is a contract without adequate consideration; and third, that there is no historical precedent nor legal justification for many of the exemptions now upon the tax-rolls of the State of New York.

I thank you, gentlemen. (Prolonged and hearty applause.)

## CHARLES J. TOBIN'S ADDRESS

I am unable to agree with the gentleman from Westchester county. Most figures show the extent of exemptions in the extreme, that is, they are figures of counties where extreme conditions exist. It must also be admitted that the valuation placed upon exempt property is the fair or full value, whereas the value placed upon property that is subject to assessment is far below the full and fair value of the property, so that ratios using such basis are not absolutely correct.

The *total* real property value year 1920 in the State (\$17,592,292,422), the same including the assessed real *and exempt*; the exempt real estate (\$2,996,566,422) is only 17 per cent of said total real property value in the State *and less than 4 per cent of said total real property of the State is real property exempt* (\$675,248,968) *in private ownership.*

*The large increases in exemptions each year are public, not private.* The 1920 records of the State Tax Department show *increase* in public exemptions over 1919 in the amount of \$153,380,148, and a *decrease* in private exemptions in 1920 over 1919 of \$37,969,119.

It was clearly demonstrated before the Constitutional Convention of 1915 that certain private schools save annually the city of New York upwards of seven millions of dollars, which is about fourteen times the amount of annual exemptions from taxation allowed said educational institutions.

As to hospitals, it was shown that in the city of New York, the moneys supplied by private charity to Protestant, Catholic and Hebrew hospitals was eight times the aggregate tax on all the exemptions of the land and buildings, allowed by the city of New York.

As to asylums, figures show that for maintenance through private charity and benevolence there was contributed seven times the aggregate tax on exemptions of all the lands and buildings.



As has been said, "It might be 'efficiency' if New York city added to its assessment list the seventeen millions valuation of Trinity churchyard, at the head of Wall street, but the effect would inevitably be to obliterate the churchyard and the national deficiency of ideals that would attend its absence would soon eat up the \$340,000, that its taxation would annually return to the city."

Former Chief Judge of the Court of Appeals Edgar M. Cullen, when the Constitutional Convention of 1915 was in session, said: "I am willing to stand sponsor for the present constitutional provisions relative to religious denominations. They have worked very well, and in my judgment should not be changed, either in favor of or adversely to the denominations. I think it would be grossly unfair to the benevolent persons who have contributed so generously to the erection of the noble religious and charitable edifices which adorn our towns and cities on the faith of a practice that has prevailed in this State from the earliest times to exempt such buildings from taxation, now to turn around and tax them. I am entirely clear that in the long run it would not enhance the revenues of the State or municipalities one whit, while it would deprive a very great many of the poor and unfortunate of assistance from private charity, which, as a rule, is far more economically administered than public charity, and which it should be the object of the State to foster instead of to discountenance."

*Many of the children formerly committed to institutions, as well as a large number that would ordinarily be committed today, are now sent to so-called foster homes, so that the revenue of most of the child-caring institutions is being depleted every day, and if we are to add to this a tax on the land and buildings of the institution it would amount to nothing less than confiscation.*

Each year there is taken up in the city of New York a collection in the churches to help defray the expenses of free beds in certain denominational hospitals.

Under the existing statute corporations and associations receiving exemption are not allowed to make any profit nor

can they be deemed commercial propositions in any sense of the word. They are instead rendering a public service and are helpful and beneficial to all classes of the community. The churches are monuments of grandeur and architecture and tend to the peace and order of the community. The charitable and educational institutions render a service which otherwise would have to be rendered by the State itself, and each institution lessens the burden which would have to be borne entirely by the community at large and discharged by taxation. The public hospitals, asylums, etc., are at present inadequate, as are also the public facilities for education, particularly in the cities of New York and Buffalo. It can be proven without doubt that the actual cost and value of the services rendered to the public by the private charitable and educational institutions of the State of New York, particularly of the cities of New York and Buffalo, and the saving thereby effected to the budget or taxpayers of the State and cities greatly exceed the aggregate of all taxes to the extent of the exemptions granted or other allowances and payments made to them.

Much is said about the money of philanthropists being invested in property of educational, charitable and other corporations that are exempt from taxation. If men and women, rich in goodness and kindness, as well as wealth, seek to help and better society by generous giving to activities of the State and its subdivisions, their efforts should not be destroyed by taxation.

Former Surrogate Fowler of New York county, for whose learning and ability the lawyers of New York professed the greatest respect and even admiration, ruled that a bequest of \$500,000 made to the New York Historical Society is not subject to the government tax. The reason is because the society "performs a meritorious governmental service in the most important of governmental functions, the making of good citizens."

This utterance will throw light on the matter when the question of taxing churches is brought before the public. Assuredly greater results are achieved in making *good*



*citizens* of the many hundreds of thousands of men and women who crowd our churches, Sunday after Sunday, and frequently during the week, than all the historical societies of the world could ever hope to accomplish.

The fact is that church and parish school property is used for public service, and not for private profit. No one gets rich out of such property — and should not! It is held as a *necessary condition* of the teaching of virtue and morality under the highest and most efficacious sanction. If religion is to meet the people and reach them efficaciously it must have the property that is necessary and not be impeded because it cannot reach or meet taxes; no sense in outlawing it or driving it from good districts, thus restricting its power for good.

Parish schools conducted by men and women, who look for the bare necessities of life and no adequate remuneration, do efficacious work of religion and lighten the burden of the whole community.

1. They relieve the State of the burden of education.
2. They train youth in the highest morality.
3. Conduce greatly to the maintenance of public order and to the restriction of crime.
4. They are an ornament to the city.
5. A source of just pride to good citizens.

Since they are dedicated to God they are made as beautiful as possible.

Apart from these utilitarian reasons are others based on justice and right. If the function of government is to safeguard the individual's rights and to facilitate the exercise of them, then man's most sacred duty, most venerable and indefeasible right, viz., to worship God, should be supported and encouraged. This has always been recognized and has come down to us as a precious inheritance from our ancestors. To tax churches in which this duty is performed and the right exercised; to tax schools in which children are trained for that duty and prepared for the exercise of their rights, is to penalize the individuals instead of protecting

them; to impede instead of facilitating the exercise of their most cherished right.

But more is to be said. To tax the worshipers of God because others do not worship Him and pretend that equal treatment demands this is to strike at every existing right. The individual's right to worship God publicly in company with his fellows is antecedent to the modern denial of God and of that right. It cannot be invalidated by such a denial. One might as well say that only those who wish for an army and navy should be taxed for them and that anti-militarists should be exempt. But, it will be said, the army and the navy are part of our social system. One living in that system cannot plead his private opinions to exempt himself from its burdens. Quite true; and God is a part of the social system on the American continent, as is proven in a hundred ways. The obligation of worshipping God publicly is recognized in that social system. The denial of God is only a private opinion, and to plead this in justification of the penalizing of those who live loyal to God and the Constitution is to ignore the most elementary prescriptions of justice.

It is urged that the State knows no religion. This sophism is dissolved by a very simple distinction. The State knows no religion at all, is utterly false. Federal, State, provincial constitutions, the practice of the executive, the legislative, the judicial authority all recognize God and man's obligations to Him. The State knows no particular religion to the exclusion of others; this is true, but beside the question. The State knows no particular religion, that is to say, it does not hold a negative attitude in the matter, interfering with none, but protecting every individual in his right to worship the God it recognizes, this is absolutely false. Yet to justify the taxation of property used for religious purposes one must suppose it to be true.

The speaker's defense of Henry the VIII as a tax reformer betokens a lamentable ignorance of the actual history of the sixteenth century and an utter unawareness of the consequences that followed in the seventeenth and eighteenth



centuries from the very action of this king which commends itself to the unthinking. Henry the VIII robbed the English monasteries. He did not tax them. The Tudor lust for gold is the simple explanation of his whole attitude. An attentive study of the facts and their political explanations will not absolve the English king from the most atrocious grand larceny ever committed by a monarch. The result showed that robbed of its resources religion became less directly social in its action, the burden of that duty falling upon the State. How the State managed it after robbing the monasteries of their legitimate possessions is seen in the wretched poverty, ignorance and illiteracy of England in the seventeenth and eighteenth centuries; the social conditions that ensued being the worst in English history. The merry England of the pre-Reformation day was turned into a wretched country which cared little for the poor and less for the unfortunate. One has but to read Dickens, Thackeray and the nineteenth century critics of English social and educational conditions to find out how Henry the VIII's taxing of monasteries to suit his greed and lust brought upon England a series of social and industrial disasters of which the end is not yet.

No honest student of the Middle Ages who knows how the Church cared for the poor and how workingmen's guilds were conducted but must wish that in our day some of that justice might be meted out in order to prevent the difficulties between labor and capital. I fear that the gentleman who attacks the Catholic church and her record in the past has much to learn both of the pre-Reformation history in England and of post-Reformation history in that country.

SECRETARY CASEY: The New York State Tax Association announces the appointment of the following men to serve on committees, and requests that the members appointed meet in this room immediately after this session.

As a Committee for Nominating Officers: Hon. James D. Smith, State Tax Commissioner; B. S. Orcutt of New York; William S. Downs of Bay Shore, Long Island.

As the Committee on Resolutions: Hon. John J. Merrill, State Tax Commissioner, Chairman; Hon. Walter H. Knapp, former President State Tax Commission; Thomas Wareing, Assessor, City of Albany; Francis A. Willard, Secretary, Home Rule Tax Association; Charles F. Jones, Secretary, Board of Assessors, Utica; W. A. Maxwell, Supervisor, Town of Pompey, Onondaga county; J. J. Youman, Chairman, Board of Assessors, Town of Unadilla, Otsego county; E. J. Moriarty, Tax Attorney, Western Electric Company; W. Fred Silleck, Erie Basin Board of Trade, Brooklyn; Peter F. Smythe, Assessor, City of Yonkers; Richard Michell, Village Clerk, Brewster.

COMMISSIONER SMITH: Gentlemen, the conference was especially pleased when it learned that the next speaker to favor us today would be the Honorable Walter H. Knapp, former President of the State Tax Commission. It gives me great pleasure to present Judge Knapp.



## LOCAL ASSESSMENT PROBLEMS

HON. WALTER H. KNAPP

*Former President State Tax Commission*

I have been so impressed with the magnificent address of my friend Mr. Bull, from Westchester county, that I am almost inclined to digress from the remarks which I expected to make to you at this time, and call attention to one particular subject which I think should be considered in a concrete form and some action taken upon it during this conference, by way of resolution at any rate.

At the Constitutional Convention in 1915 there was proposed an amendment to the Constitution, or an article for the new Constitution, what was known as a tax article. One sentence of that referred to exemptions, and was substantially as follows: "Hereafter no exemptions shall be granted except by general laws, and then only by the affirmative vote of two-thirds of the members of the legislature elected thereto."

If such a resolution is adopted by a Legislature, and again passed by the next Legislature to which members of the Senate are elected, and submitted in a referendum to the people, I feel certain that the sentiment in this State is such that it would be adopted almost unanimously.

I want to say in that connection that there is a growing tendency among certain institutions not to claim exemptions to such extent as they have heretofore; and under the advice of the State Tax Commission, as I am informed by its counsel, and under the more recent decisions of the courts, it is a pretty difficult matter if the law is strictly applied as it should be, to get an exemption for a fraternal organization. Now, as Mr. Bull said of himself, I am a member of a fraternal organization, have been a member for twenty-five years and am a life member now, if you please. But I have always been, and am now, opposed to the continued

exemption of the property of fraternal organizations. Where they purchase a piece of taxpaying property, improve it, build upon it, add to the beauty of the neighborhood and all that sort of thing, and it is managed, conducted, held, and owned by a group of representative citizens, mostly well to do, it seems to me that it is not consistent with the idea of good citizenship, or with the ideals taught by those institutions, that they should ask to be relieved from contributing anything toward the support of the community in which the property is located, the county in which they live, or the State or Nation. And I believe the time will come when that provision of the law will be so amended as to make it absolutely definite and certain, and relieve the tax commission of constantly replying to letters as to whether this or that or the other thing may be exempted.

The subject assigned to me was "Local Assessment Problems." Well, if I were to discuss many of them it would take a day's time. If I were to discuss them all, I do not know that I could get through this year. I feel, however, that this conference, composed as it is of representative citizens from all over the State, and that has come together at a personal sacrifice to many of you and at considerable expense to the taxpayers, ought in some way to express itself to the Legislature and to the people, to the end that there may be some improvement in our tax administration and in our tax system.

I am not one of those who condemn the system of taxation in the State of New York as utterly impossible, as the worst ever, and all that sort of thing. I feel that in the past few years the tax system in the State of New York has greatly improved, and is being greatly improved at the present time. There is one thing, however, upon which I am going to dwell for a moment, and that is the problem that confronts almost every assessor in the State of New York, when they undertake to place a valuation for tax purposes upon public service and public utility corporations.

Under our Constitution, the Constitution adopted in 1894, if you will examine it you will find that there is no



tax article embodied within it. The only reference to taxes is, I think, in article 3, section 24, which provides in effect that whenever a tax is imposed or revived it shall distinctly state the object for which the money is to be raised and the amount of the tax. Going back to the sixteenth section of the first article, you will find that the colonial laws of the commonwealth and such statutes as were in existence at the time of the enactment of the Constitution in 1894, and are not inconsistent with that Constitution, are still the law of the State. Taken in connection with article ten and section two, which is known as the "home rule" provision, it limits the power of the State in the matter of the assessment of the real estate located in the several tax districts of the State. I think, by common consent, you gentlemen representing your various tax districts will agree that the most difficult problem that we have is to determine, for purposes of taxation, the valuation of the physical property of these public service corporations. You realize the fact that the people must have them. They must have the trolley systems; they must have the telephone; they must have the telegraph; and the railroad, water, light, and electricity, and all those things that contribute to modern life.

In 1907 public service commissions were provided for under the administration of Governor Hughes, and the rates which these corporations were charging to the people could, in a large degree, be determined by these public service commissions. I notice that over in New Hampshire, in 1919, they passed a law exempting from all taxation any trolley system of the State that could not show a net earning at the end of the year, and four out of the fifteen companies in that State took advantage of that law. Now, I am not contending for a situation of that kind. I do not believe that it is good policy, and I do not believe that it is exactly fair; but I am contending for some system of taxation that will be not only fair to these corporations, but fair to the State, easily and inexpensively administered. So long as we have in the State of New York something like eight thousand school districts; over nine hundred so called tax dis-

tricts, consisting of towns and cities; some four hundred and sixty villages, and numerous water and lighting districts throughout the State, in nearly all of which some of these corporations are required to pay taxes, I do contend that any system that compels a public service corporation to pay taxes in all or nearly all of these districts is unnecessarily burdensome and annoying. Every dollar of expense, whether by taxation or by ascertainment of the amount of the tax, incurred by these corporations must be added to their operating expenses, and ultimately be reflected in the rates which they must charge to the public. I contend that any such system is inadequate, and ought to be modified to a very considerable extent.

Now, I do not claim that this is anything new or unique. I have examined the laws of all States in the Union, and I find that with only one or two exceptions the steam railroads are not assessed locally. I find that with but few exceptions most of the statewide public utilities or public service corporations are assessed by the State, in one form or another. I am not going into the details of how that assessment should be made or what kind of taxation they should be subjected to in order that they be made to pay their just and full share toward the support of government. I only call attention to the need for the practical application of some rule which should be applied in this, the Empire State, the greatest of the States of the Union.

I believe that the continuation of the method of local assessment of these corporations is due very largely to a misunderstanding, and in some respects to a misapprehension, that has been made by a comparatively few of the public service corporations in that respect.

Five years ago the Constitutional Convention was held, and there was a resolution there which did not exactly cover, although by implication it might have covered, the public service corporations; but it referred more particularly to centralization in the counties by consent of the people. It referred, also indirectly, to the possible centralizing of the assessment of the public service corporations. There was a



propaganda put forth by certain interested parties, upon the theory that it meant a listing system for all the people and all the property within the State. Now, the people of this State have demonstrated beyond question that they will not stand for what is technically known as a listing system; and you remember that copies of the listing blanks of the State of Ohio were circulated all over the State of New York, as part of this propaganda, among farmers, business people and voters generally everywhere. The result was the overwhelming defeat of this provision of the proposed new Constitution; but want you gentlemen to consider what it means to the State, and what it means to you and to the taxpayers everywhere, whether there is some centralized system of taxation, or whether we shall continue in the old way, when practically every State in the Union has taken up another method.

This method of taxation of these corporations reminds me of one of those old Lincoln stories. When Honest Abe was asked to write a recommendation for a boy who had been in his office and who was quite impossible; and poor Abe scratched his black and wiry hair for something to say commendatory of the boy who was looking for another place. He finally got his pen and paper and wrote this: "If anybody wants a boy like this boy, this is just the kind of boy he wants."

If anybody wants a tax law just like this tax law, this is just the kind of tax law he wants.

I hold no brief for any corporation. I never was retained by one. I have been against them many times in litigation; but it does seem to me, looked at from the point of view of self-interest on the part of the corporations, disregarding the interests of the great army of attorneys that must be employed to examine the tax-rolls and ascertain whether or not they will be able, by any sort of bluff or argument, to reduce the assessments that are made against them, that there ought to be a change. Looking at the question from the interest of the financial management of any one of those corporations, how can it be possible that they will advocate a continuation

of a system that costs them thousands, yes, hundreds of thousands of dollars a year, with an array of legal talent and accountants always at hand to make up their accounts and reports and to look after their taxes? The telephone company pays in more than five thousand districts. In some States its taxes are paid in one check and distributed, just as you are able to distribute the personal income tax, and one-third of the corporation income tax, so called. I know it is possible to work out a system that will be equitable for all concerned, both for the corporation and for the people, and economical in its administration, and that could be administered with a minimum of inconvenience.

Now, gentlemen, I must say that when I received an invitation three or four days ago to talk to you for a few minutes, I was not quite sure upon what particular subject I would speak. I would like to talk about the problems of the local assessor; I would like to talk about the assessment of personal property, which is so annoying to most of you. A gentleman from one of the counties said last night: "We received notice from the State Tax Commission that all tangible personal property must be assessed. We took it literally, went at it in good faith, and put \$100,000 on our tax-roll. Not a single other town in the county put a dollar on; and it cost us \$1,700. That is not a fair proposition, and something must be done along those lines to correct a situation of that kind."

Some do; others do not. The fellows that are honest about it, the people that are honest about it and disclose it, have to pay, while "the guilty flee and no man pursueth." That is another question that you are up against. I know that you would like to talk about it, but I hope and believe that under the present management of tax matters in the Senate and Assembly, under Senator Davenport's and Mr. Judson's supervision, ultimately that problem is going to be solved; whether by the total exemption of tangible personal property, of which there is only \$33,000,000 outside of New York city, or whether it will be by classification and a fixed rate,



I do not know, and I have no opinion to express at the present time.

Referring again to the public service corporations — a great railroad in the State pays taxes in seven different ways. It pays taxes upon real estate locally, upon special franchises which are certified to you as real estate, upon capital stock, upon its personal property, and upon its gross earnings; and it pays in school districts, in towns, in villages and in cities.

Now, is it not possible for this committee on resolutions to indorse some proposition to relieve the assessors of these problems? You know that your little town does not want a lawsuit. The lawyer for the corporation tells you that if you raise the assessment you will be sued. You know that will not be agreeable to your people, and I know you can all see the advisability of adopting some method of taxing this vast property by central authority. I trust that such a resolution as I have outlined may be adopted here, and I trust also that you will be the propagandists for its adoption in your own communities when it comes up a year or more hence, if it does. I think the time is ripe for such action, and believe the sentiment of the people is such that it can well be taken care of when the time comes.

COMMISSIONER SMITH: I would like to announce that a photographer desires to take a picture of those attending the conference, and he asks that at the close of this session everybody step around to the main entrance of this building where a group photograph will be taken.

The next on the programme is the round table and question box, under the leadership of Deputy Commissioner Rockefeller.

## QUESTION BOX

MR. ROCKEFELLER: When they want some people to cut their speeches short they get up and tell them how much they would like to hear them. I am going to tell you what a fellow said to me just a few minutes ago. He said:

“Rockefeller, don’t forget that you are on the program as a *question* box and not a *chatter* box !”

Our time is so short, and we have so many good questions here, that I will take them up as they come, and endeavor to answer them as briefly as possible. I suggest that other questions which may arise in your minds wait until we have disposed of those now before us, and after we have answered them, we will hear verbal questions, if you care to ask them. The first is this:

A town is bonded for highway purposes. Does the incorporated village within the town have to pay taxes on the bonded indebtedness, when the roads are built entirely outside of the incorporated village?

An incorporated village does not have to pay any of the expense incurred in the construction or maintenance and repairs of highways in the town outside the incorporated limits of the village.

Are the Freemasons, as an organization, exempt from taxation?

Speaking generally, real property owned by Masonic corporations or associations is not exempt from taxation and this is particularly so in the case of real property owned by subordinate lodges. The tax commission advises assessors to assess all fraternal properties and if the question of exemption is raised to obtain a copy of the certificate of incorporation or other organization papers of the owner, a copy of its by-laws and an affidavit setting forth the facts upon which the exemption claim is based. Send these data to the tax commission and it will furnish an opinion in writing stating whether or not an exemption should be allowed.



Is a clergyman who is an alien exempt from taxation?

No; neither is any real or personal property owned by him exempt. The tax law says that in order to be entitled to an exemption the clergyman must be an actual resident and inhabitant of the state. If not he is not entitled to any exemption.

(A Voice asks): But they do exempt him, to a certain extent?

MR. ROCKEFELLER: The real and personal property owned by a minister of the Gospel or priest, is exempt up to \$1,500, providing the owner is actually engaged in the regular performance of his duties as a minister or priest, or over seventy years of age, or physically unable to perform his regular ministerial duties, always providing he is an actual resident and inhabitant of the state. That \$1,500 exemption is the total amount allowed throughout the state. It does not mean several exemptions of \$1,500 in different parts of the state. If application be made to any board of assessors to exempt the property of a minister, it is very proper, and the assessors should ask him, require him, to satisfy them with such proof as they may think necessary that he is or is not enjoying exemption in any other tax district in the state. Assume he says he is getting \$1,200 in another town; then you grant him \$300. The total exemption allowed him in the state is \$1,500 and the assessors should ascertain how much he is getting elsewhere. This exemption also extends to the widow of such a clergyman.

A certain oil company has oil tanks and a garage built on a concrete foundation, but on leased lands. Is this assessable as real property?

That is defined as real property in the tax law, and it is the duty of the board of assessors to assess this property. The fact that it is not on land owned by the one who owns the buildings makes no difference.

A certain milk plant was appraised in 1919 by the state assessors at \$45,000. This company is now asking and claiming that the plant is worth \$360,000. How would you assess it?

There is nothing to indicate here whether or not the two estimates of value cover exactly the same property. The question refers to the state "assessors." There are no such officers. The tax commission has engineers who aid the local assessors by appraising the values of properties which are beyond the ordinary assessors, or which would require added expenses to the towns. These engineers, sent out from the tax department, appraise only the real property, that is, the buildings and superstructures, and they do not assume to value the land. They appraise only so much of the machinery as is real property.

It may be that there is \$360,000 worth of property in that plant. It may be that the value of the real property is but \$45,000, so that the assessors of that tax district should not pass by without further investigating the claim of the company that the plant is worth \$360,000. That estimate must be analyzed, and there must be segregated that part of the plant which is personal property and that part which is real property, and if it be a corporation which pays franchise taxes to the State under what we call article 9-a of the tax law, then only the real property of the plant is taxable locally, and none of its personal property.

Has a church the right to sell tickets for admission to entertainments, proceeds to be used for church purposes, and still be exempt from taxation?

Yes; no question about it, unless the church should make a business of running a place of amusement such as a motion picture theatre for example.

Should real estate values be increased for taxes where improved roads are being built? If so, what percent?

They should if the improvement of the road actually increases the value of the property. It is undoubtedly true that the improvement of highways does increase the value of a property, which before that, you might say, was inaccessible. It was beyond reach, particularly during the season of bad roads. Now, the proximity of farms to markets, and the ease with which produce may be marketed does have an effect on the value of that farm. Just how much effect it



may have in each particular instance, you will have to determine. There is no rule. To my mind there is in general an increase in the value of farm property adjacent to a newly improved road.

It is generally conceded that large tracts of real estate lying in rural districts escape taxation because of not having tax maps. The assessors are unable to locate it. Why not have a law passed to compel the owners of real estate to inform the assessors as to the number of acres of all tracts of land to which they claim ownership?

It might be a good law. However, the assessors undoubtedly, when they are doing their field work, could ascertain that by diligent inquiry from the owners of property. A gentleman was saying to me just the other day: "You know, that is wrong, and we should have the law amended."

You cannot get a law amended by a wink of the eye. It is a hard proposition to get tax laws amended, especially those which have been on the books for years and years and years. Precedents seem to have been established which are hard to overcome. There are things which ought to be done and things which must be done, and the only way to accomplish those things is to educate your people up to the necessity for them. If the State Tax Commission can help you in any way, we can give you positive proof of the benefit to each community, town, city or village of having tax maps. They are the greatest imaginable aid to assessors in performing their duties.

When the subject of tax maps is presented, many people just throw up their hands in holy horror at the thought of the enormous engineering bill. There is that unpleasant feeling that it will cost the town a lot of money to have the tax maps prepared. We are endeavoring to show you, and are pretty well along with our work, that it is possible for even the poorest tax district in the state to have a tax map system at an actual cost which is so low that you cannot afford to be without it. We are working on that plan, and we are going to try it out in my own home town. The assessors are going to help to get the properties on the map, and

we hope in a short time to lay before each tax district a definite plan for furnishing a good enough tax map, at so low a cost that you cannot afford to be without it.

Why not advocate a law making it incumbent on those who sell the whole or any portion of their real estate to furnish the assessors with maps or drawings showing the portions disposed of?

Now that is required in certain cities of the state. I know that in Utica all deeds are required to be presented to the office of the board of assessors of the city, and undoubtedly whoever asked that question had that in mind with regard to tax districts generally throughout the state. It would be helpful to the local assessors, and would furnish them with the necessary details not easily procurable in other ways.

Also a law requiring that those who erect new buildings on property lying in rural districts to notify the assessors of the fact.

That would also be good; yet, if the assessors actually view the taxable property in their town, it would not be quite as necessary for them to be informed of that. That really is a part of their regular duties, and I do not see the necessity for that, if, as I say, the assessor diligently inquires, as the law says he shall, for all the taxable property within his district.

“Why not pay the assessor more?” (interrupted by applause) “I did not finish — so that he can give his whole time to the work and so that he can live and keep his family?”

You know there are a few places in the state of New York where, I think, they do that. And do you know why? One of the reasons is that the assessors have proven positively to the people of those tax districts that they are worth whatever they are paying them. They are worth more than that. The people are inclined to look with favor upon honest, earnest, conscientious effort in public office. Now, the salary of assessors is so ridiculously low in our state that it was increased fifty percent a few years ago, from two to three



dollars per day, which is still altogether too low. But I do believe this, gentlemen: **that this is but a slight indication, — that slight increase** was but an indication of the approval of the people of your tax districts and the tax districts throughout the state generally,—their approval of the improvement in your work; and if it continues to improve, as it certainly is improving today, we may be able to have a few great-great-great-grandchildren enjoy what we should enjoy today in the way of compensation. I am not bragging **about that; but Senator Davenport** said last night, and said it so well: “There is material improvement in the administration of the tax law today.” And I just want to tell you this one thing, not for the purpose of bragging, but so that you, each and every one of you who has made it possible for me to make this statement truthfully, that you may enjoy it, and that is this:

“In 1920, there were *two billion* dollars of taxable real property on the assessment rolls of the state of that year, more than there were in 1919. *Two billion; and six hundred million* of that was without the city of Greater New York. That increase outside the city of New York is greater than the increase in any previous year in the entire state, including the city of New York. You ought to be proud of it. I know you are. And we are proud of it for you!”

A man had \$90 worth of wild geese killed by dogs. He saw the dogs, but could not kill them. Says he don't know the owner of the dogs. The law will not allow this man pay for his geese. I would like to know why? If the money collected as dog tax, as I supposed, was to pay for damages done by dogs, and the law will not allow it, why not change the law and give this man what justly belongs to him?

Now, upon that I cannot make any comment other than this: The State Tax Commission has nothing to do with the administration of the dog law. The Department of Agriculture administers that law, and I suggest that the questioner call at that department and I am sure they can and will answer his question.

A VOICE: Doesn't the law say "fowl" as well as "animal?"

MR. ROCKEFELLER: I haven't a copy of the law with me. Take it up with the Agricultural Department, because any interpretation I might put on that law might not hold. It is their law and their administration, and when you want the proper answer to a question it is always best to go to the one who has full authority to answer it.

Why do assessors fail to assess property at full value? Is it because they are attempting the impossible,—trying to enforce a law that hasn't public sentiment back of it?

No; that question seems to assume something that I do not believe to be true. I believe public sentiment is back of the attempt to assess property at full value. You ask the people of Buffalo, of Middletown, of Niagara Falls, of the town of Wellsville, Allegany county; the city of Gloversville, city of Johnstown, Port Jervis, Newburg, New Rochelle, town of Rye, from which Mr. Bull comes, and several other towns in Westchester county. You ask them if the people are not back of it, and you ask them if the people do not want it! Just as an instance, here is a glaring example:

An appeal from an equalization was brought to the State Tax Commission, and one of the supervisors from one of the towns said, "Something has got to be done to help my town." "Well," I said, "what do you think has got to be done?" "Why," he said, "we have a tax rate of thirty-nine dollars a thousand for state and town taxes alone. That is pretty nearly four per cent on our money, isn't it?"

I said to him: "Go ahead and tell the rest of your story," and he said:

"Isn't that enough?" "Yes, quite a lot; but," I said, "you went into your equalization by your board of supervisors with \$800,000 assessed value of your taxable property, and you came out with \$2,000,000, and, I said, how long are you going to compel \$800,000 to pay the bills of \$2,000,000?"



He said: "I never thought of it in that way before."

I said: "Isn't it true? Aren't you compelling \$800,000 of property to pay the entire expense which should be borne by the \$2,000,000? In other words, you are letting go Scot free \$1,200,000 worth of property and piling it over on \$800,000."

He said: "I will go home and think that over."

I said: "I should advise you to; and when you come to figure it out, you will see whether or not this full valuation of property is going to be beneficial to you."

I got a letter the other day saying I was right, and they were going to do it this year, and he said: "They cannot stop me, if this is my last year as assessor."

A VOICE: You don't have to quote all this to back up public opinion. Our town for the first time put it up to 100 percent this year. We couldn't find three men in the whole town to object, and I think that if the rural people understood it better they would back up assessors.

MR. ROCKEFELLER: If I remember correctly, out of the 900 (there are 918 towns in the state of New York) out of 918 towns, in 837 of those towns the assessed value of real property was increased last year; 837 out of 918, and some of those increases were sufficient to bring them up to approximately full value. They say it is a bad thing to call particular attention to any one town or any one person or any one instance, because you may forget to refer to some others worthy of mention. Here is Boonville, Oneida county, 105 percent; town of Camden, Oneida county, 105; Marcy, 100; Forestport, 100. The entire county of Oneida, including the cities of Rome and Utica, increased their assessments 79 percent in 1920 over 1919. They went to over \$150,000,000. In the county of Westchester they increased their assessments thirty-three and one-third percent in the entire county, and that increase amounted to \$158,000,000. The city of New York increased its assessments approximately sixteen and two-thirds percent. That may sound small in percentage, but they increased in the

city of New York, five boroughs, taxable property, \$1,400,000,000 in 1920 over 1919, and so it goes.

I wish I could read something about Columbia. I have a list of several tax districts in the state which made substantial increases. For instance, the county of Nassau increased about \$43,000,000. (Compare that with the total valuation in your county), thirty-three and one-third percent. I know that public sentiment is back of it. I believe that the people want it and I believe that the people will get it, and if they don't get it through you or me, they will get it through our successors, because it is right and I know it is right, because it is a statute; it is the law, a mandatory law of the state of New York; and don't let you or don't let me set myself up as a better judge of what is right or what is wrong. The Legislature has made it mandatory that we shall do this. Let us do it! and let us do it right away! And I will say to you now that if you do not keep up with this wonderful trend toward the full value assessment, if you fall behind or even if you stand still, you are going to lose dollars and cents by it, and you are going to continue what is the bane of all taxation in this state, and that is the inequality which actually does exist.

A VOICE: I notice that you did not mention the town of Huntington, Suffolk county. We have doubled our assessment and reached 100 percent for 1921. We have now an appeal from the decision of the Suffolk county supervisors. Might I ask when that appeal will be acted upon?

MR. ROCKEFELLER: I cannot tell you that here. The first hearing will be scheduled as soon as can be.

SAME VOICE: Is it customary to have such delays?

MR. ROCKEFELLER: There is no question connected with it. The Tax Commission has but one rule. We endeavor to decide these appeal cases within the year in which they are brought. We have been prepared for this conference and the Legislature is in session. You know, of course, that there is considerable legislation on the calendars of both the



Senate and Assembly just now with respect to tax matters, and the tax department is closing up the old year and getting ready for the new. It is furnishing a great deal of information to the Legislature. We have been very busy, and, of course, the weather and road conditions have not been particularly good for us to get down to Suffolk county; but we will get there, and the appeal case, I know, will be decided upon its merits.

THE VOICE: I thank you.

MR. ROCKEFELLER: I want to call attention to the town of Huntington. They have brought it to full value. We get these reports from all corners of the state.

A VOICE: Does that mean they were fifty percent before?

MR. ROCKEFELLER: They will tell you this better than I can. They claim a full value assessment. Confidentially, I do not know whether or not we could comment on that or not, because of the appeal that is pending.

To resume our question box:

A moulding sand company buys the sand on the farm of A, paying cash down for it. The assessors assess it to the company as real estate. Afterward they learn that a clause in the contract provides that A shall pay all taxes. Should sand be assessed to A instead of the company?

I assume that it is a contract for the purchase of moulding sand, which provides for the removal of perhaps a layer of this moulding sand, and that is all that they take. Now, if that moulding sand lies in its natural, original position, we do not recommend a separate assessment of the sand from the rest of the land. It is just like a growing crop, in a way, at least it should be treated, we believe, as a growing crop. The value of the sand should be reflected in the value of the land, so long as it lies in its natural, original position.

Gentlemen, that brings up this question: What seemed to disturb the assessors in that case was the fact that somebody else was going to pay the tax. They were concerned about who was going to pay the tax, or who owned the property.

Don't think of that. It does not concern any assessor, and the question of ownership should not be permitted to enter into the assessor's work in any way, especially to influence his valuation of the property. If it is real estate, assess it as real estate, no matter to whom it belongs, and don't concern yourselves with either the owner or who is to pay the tax.

From what source do you get your expenses for attending this conference?

The law says that the actual and necessary traveling and other expenses incurred by local assessors in attending this conference is a charge against the county in which your tax district is situated. Your proper method of procedure is to present your bill to your board of supervisors, and it may be done either through the clerk of the board or the supervisor of the town. But, remember, those are county charges, and the bills are to be presented to the supervisors for audit.

With respect to the exemptions now allowed on real property purchased with the proceeds of a bonus or insurance, — the soldier, because he is a soldier, is never exempt. As an individual he is not entitled to any exemption. The only exemption he gets is the exemption which is allowed on real property owned by him, his wife or his widow and purchased with pension money or the proceeds of a bonus or pension or insurance money. He must make application for that exemption, and one question asked is whether or not such application should be made by the owner of the property, and I think the instance was cited that the local assessors did put such property on the assessment roll, and the soldier, or former soldier, refused to pay taxes and says he is not going to pay them.

The assessors acted properly. The law requires that no such exemption shall be granted until after application, and then the exemption extends only to the property owned by the pensioner or soldier, his wife or his widow, and purchased with the proceeds of a bonus or insurance, and never to exceed \$5,000. And it is not exempted from taxation for highway or school purposes.



MR. TOBIN: I do not want to take up any time, but I would like to have the privilege of examining the paper presented by Mr. Bull a little more thoroughly, and answer some parts of it that I do not agree with. I will hand it in for the record, and will not take up the time now. (See page 114 for Mr. Tobin's answer.)

Adjourned at 12.55 p. m.





## FOURTH SESSION

THURSDAY AFTERNOON, MARCH 3, 1921, 2:20 P. M.

HON. FRANKLIN W. JUDSON, Chairman, Assembly Committee on Taxation, presiding

Address by Congressman-elect OGDEN L. MILLS, President, New York State Tax Association

Inequalities in Taxation, HON. JOHN J. MERRILL, State Tax Commissioner

Roads to Cheaper Government, HON. LUTHER H. GULICK, Secretary, Bureau of Municipal Research, New York City

Resolutions

Discussion





## FOURTH SESSION

THURSDAY AFTERNOON, MARCH 3, 1921, 2:20 P. M.

Called to order by President Walsh.

Let me announce to the members of the Committee on Resolutions, that immediately after the paper which will be read by Commissioner Merrill, they are requested to adjourn to the registration table outside. They will then have opportunity to take up matters that have been presented for their consideration.

Now, ladies and gentlemen, I am quite sure that all of you in this room listened with great interest and benefit to that very excellent address with which we were favored last evening by Senator Davenport. And we all remember his reference to the fellow "over on the other side," whom he said was keeping him right up to the mark. He made other pleasant references to Assemblyman Judson, Chairman of the Assembly Committee on Taxation. It is a pleasure to me to introduce Assemblyman Franklin W. Judson, of Monroe county, to you as the presiding officer of this session, and I know it will be a pleasure to you to meet him. I therefore present Mr. Judson.

HON. FRANKLIN W. JUDSON: It is indeed an honor and a privilege to preside at one of your meetings of this third conference. Unfortunately, this is my first opportunity to be with you; but I think you realize that I am particularly interested in your work. It has been my privilege for the past five years to fill the post of Chairman of the Assembly Committee on Taxation, and I presume one of the reasons the President of the Commission has asked me to preside today and introduce the speakers is the fact that you might then have a look at one who is watching always to see that you keep within the law.

It has been very interesting to me to try to better the condition of our present tax system, and we surely have made a great many changes, and naturally we flatter our-

selves that they were for the best. I do believe that we are every year coming nearer to what we might call a model system of taxation, and I think this afternoon that the men who are going to speak to you have had more to do with bringing that about than any others, and I include in that category all who are to address us.

One of the gentlemen, not on this afternoon's programme, but who had intended to address you earlier in the conference, is here with us now, Senator Ogden L. Mills, and so we are not going to miss hearing him. He had a great deal to do with bringing about the many changes during the past three years. He was one of the first to advocate an income tax, and he was also chairman of a special committee appointed by the Legislature to go out and investigate tax conditions; and the major part of the present income tax is due to the efforts put forth by Senator Mills.

To me, this idea of calling together the assessors is a most excellent one. It affords opportunity for you all to meet here at a central point, and exchange ideas and submit your problems for consideration; and when you stop to think that you are administering the system of taxation of our great State, in which annually there is collected about \$500,000,000 to run this great Empire State, with all its political subdivisions, we can readily appreciate what a responsibility is yours.

I often wonder if we realize what responsibilities we are exercising as we go about our duties as assessors. I do not know of any office which demands better judgment and more complete justice than that of the assessor, and we ought to have the very best material we can get from every section of the State.

Now, you have a great many problems with reference to taxation which confront you from time to time, and it is for the solution, or aid in their solution, that you are convened here — that you may submit these problems to men in charge here of the administration of the tax laws; and I hope that during your stay here that you have taken advantage of that opportunity. We like to hear, and want to know of your problems, and that is the reason for calling this conference



here in Albany, so that you can get in immediate touch with the administration end of the Tax Commission, so that they may know your needs and wants. I think it would be well if we could abolish the provision of law which says that the commissioners shall once in two years visit each county of the State, and in place thereof substitute the present idea of bringing you here. I think greater benefit is derived, and I hope that this system will be carried out in the future.

I am now going to introduce Representative Ogden L. Mills.

MR. DOWNS: Mr. Chairman, before Congressman Mills speaks, we want the pleasure of re-electing him President, and your nominating committee is ready to report. I think it well to get that out of the way at the present time.

We present the names of Ogden L. Mills for President; Vice-presidents, Charles J. Tobin, John J. Merrill, Francis N. Whitney, Fred D. Breithack.

For Secretary and Treasurer, Maurice B. Flynn of Schenectady.

For additional members of the Executive Committee, ex-officio, Michael J. Walsh of Yonkers; Edwin R. A. Seligman of New York City.

For terms expiring in 1924, James D. Smith of Utica; William J. Burke of Buffalo; J. F. Zoller of Schenectady; and Lewis K. Rockefeller of Chatham

For terms expiring in 1922, John S. Rockwell of Rochester, to fill vacancy caused by promotion of Francis N. Whitney to a Vice-presidency.

MR. DOWNS, continuing: If there be no other nominations, Mr. Chairman, I move that the committee's nominations be accepted, and that the Secretary be instructed to cast one vote for these candidates.

Carried, unanimously.

MR. JUDSON: And now I introduce Congressman Mills, who will address us.

MR. OGDEN L. MILLS: We are met here to consider,

primarily, state and local taxation, so that in one sense it is inappropriate to discuss federal tax problems; and yet the weight of federal taxes is so heavy, and their drain on the resources of our citizens so great, that it is impossible to get a complete picture of what our state tax problem is unless we consider it in its relation to the federal tax system. A few years ago this was by no means the case. In 1913 the Federal Government relied almost exclusively on indirect taxes, leaving to the States the revenues to be derived from direct taxation. Today both Nation and State are tapping the same sources, and the resources of the State are not only largely diminished by federal demands, but the efficacy of some of our state taxes is impaired by the unwise action of the Federal Government. Take the income tax, for instance. It is unquestionably true that the very high federal rates have driven an enormous amount of capital into tax-exempt securities. If those tax-exempt securities happen to be New York securities, then, as a necessary consequence, income running into the millions, which would otherwise have been subject to a state income tax imposed at a low rate, escapes taxation.

It is not, then, entirely inappropriate that you should devote a few minutes to the consideration of some problems in federal finance.

At the outset we must face the fact that for the next year or two there can, in all probability, be no material reduction in the amount to be raised by taxes. The amount appropriated for the fiscal year ending June 30, 1921, after reducing the amounts requested by the administration by over a billion and a quarter, is \$4,859,890,327, of which approximately \$486,000,000 is chargeable to 1920 for deficiency appropriations. The estimated revenue is \$5,490,000,000. We may assume, furthermore, that with a material cut in the appropriations for National Defense, the return of the railroads, and some effect at executive economy, appropriations for 1922 may be reduced below four billions. In ordinary times an expected surplus of current receipts over current expenses would be enough to justify plans for



a reduction of taxes. But these are not ordinary times. We now have a floating debt (tax and loan certificates maturing within twelve months) of approximately \$2,350,000,000. This cannot be definitely converted or reissued by devising new forms or anticipations; nor can it be funded, in all probability, on favorable terms. It should be paid off at the earliest practicable moment. Moreover, for the next two years the whole fiscal policy of the Government must be deeply influenced by the necessity of meeting obligations in excess of \$5,000,000,000 which mature in 1923; approximately \$750,000,000 of War Savings Certificates mature January 21, 1923, and nearly \$4,500,000,000 of Victory Notes mature May 20, 1923. But if the amount to be raised by taxation cannot be materially reduced, it is equally clear that the present system is ill balanced, unscientific, and in many instances inequitable.

First and foremost on the list of taxes that ought to be repealed is the excess profits tax. The excess profits tax is as attractive in theory as the name, which suggests a tax on excessive profits, would imply. A tax which taxes only earnings in excess of 8 per cent on invested capital on the face of it appears fair enough. It is, moreover, a splendid revenue produced. It yielded about \$1,700,000,000 in the fiscal year 1920, and will yield a substantial amount in 1921 even with the decline of corporate profits. But the difficulty of fairly defining invested capital has proved almost insuperable from the standpoint of administration, and revealed defects and disadvantages which would seem to outweigh its virtues. It works unequally. It depends to a large extent upon the mere accident of form in which the corporation is organized. It penalizes undercapitalized as compared with overcapitalized corporations; that is, it rewards stock watering and punishes conservative financing. It has aggravated the tendency toward rising prices, and unquestionably in many cases contributed to the high cost of living. Producers faced with heavy tax liabilities are encouraged into unnecessary and wasteful, but deductible, expenditures, as witness the enormous expansion of all forms of advertising. Moreover, it is inevitable that pro-

ducers will attempt to recoup themselves by adding part of the tax to the consumer's price, and wherever conditions are not severely competitive will succeed.

But we cannot simply repeal the excess profits tax. Our fiscal situation does not permit us to. Moreover, if we should merely repeal the excess profits tax, we would create a grave inequality as between corporations, and individuals and partnerships engaged in business, the corporations merely paying the 10 per cent normal income tax, while partnerships and individuals would still pay the exceedingly high supertaxes.

Two substitute corporate taxes have been put forward in lieu of the excess profits tax. Both are well worthy of consideration. The first proposes a tax at a flat rate on the undistributed earnings of corporations. That part of the profits for the taxable year which is not distributed in dividends, and which consequently escapes taxation in the hands of the stockholders, would be taxed to the corporation, provision to be made, however, whereby the profits could be taxed to the stockholder and yet retained in the business so as not to put a premium on the dissemination of all corporate profits. Should, however, the corporation distribute the profits, they would then become taxable as part of the income of the individual stockholders. Today corporations pay the profits tax and normal income tax, while their stockholders pay surtaxes on dividends but nothing on undistributed profits. On the other hand, sole proprietors and partnerships engaged in precisely the same business pay full income tax, normal and surtax upon the entire profits of their business whether distributed or not. This results in grave inequality. In 1918 one well known partnership paid \$1,250,000 more in taxes than it would have had it been incorporated. As stated by Secretary of the Treasury Houston, there should be one system and not two systems of income taxation applicable to persons in business. If we supplement the suggested reform for the taxation of corporations by providing that in the case of an individual or partnership the rate of the surtax on all money reinvested should



be limited to the rate applicable to the undivided profit of corporations, this desirable reform would be accomplished.

This last suggestion carries with it an additional advantage. Experience indicates that you cannot indefinitely in peace time continue to collect 65 and 70 per cent of income derived from business and investment, particularly when exempt interest may be secured at remunerative rates from tax-free bonds available to the extent of between ten and fourteen billion dollars. For the year 1916, net income amounting to \$992,972,985 was included in the returns of taxpayers having net income over \$300,000 a year. This aggregate fell to \$392,247,329 for the year 1918. There is no reason to believe that the actual income of the richer taxpayers had fallen. It is the taxable income which had been reduced through investment in tax-exempt securities. We have reached the point where the question of finding new capital for productive development and expansion is becoming a serious one. When railroad or industrial securities must yield over 16 per cent in order to offer the same income as a tax-exempt bond, the problem is too obvious to require discussion, and it is only too well exemplified by the present housing situation resulting from the lack of capital for new buildings. If, then, we continue to tax income spent at the present rates, but tax reinvested income at a reduced and reasonable rate, it is to be hoped that this very serious situation would to a large extent be remedied.

The second substitute for the excess profits tax is the proposition to increase the normal income tax on corporations to 16 per cent. England, after carefully studying our tax system and that of Canada, concluded last year to impose a corporation tax levied at the rate of one shilling in the pound on the income of corporations, at first to be levied concurrently with the excess profit duty and later to serve as a substitute for it.

The first of the above proposals is unquestionably an attractive one; but, on the whole, I lean to the second because of its greater simplicity.

No discussion, however brief, of the federal tax problem would be complete without reference to the much discussed general sales tax, so earnestly advocated by many. There are many, many advantages that can be urged in favor of a sales tax. It would relieve the undue dependence of the Treasury upon income taxation in various forms and give us a better balanced system as between direct and indirect taxes; it would have the inestimable advantage of a low rate; it would, in its most extensive forms, be highly productive. But admitting all of these arguments, I remain unconvinced, and think it more than questionable whether the United States Government should attempt such an experiment. In reaching this conclusion I have been largely influenced by the following reasons:

1. A sales tax would foster combinations which carry on under one membership many different operations, and penalize small independent business concerns. The combined business could exchange products from one department to another without payment of the tax, whereas the smaller dealers or producers would have to pay the tax on each stage in the process of production or distribution.

2. The tax would be in some industries heavily cumulative, and the combined burden would probably affect the prices of some goods in much the same way as the excess profits tax does. The operation of the civil war taxes on manufactures and sales was in some instances unbearably cumulative.

3. It is not suited to serve as a substitute for the excess profits tax. To abolish the excess profits tax, without introducing anything in its place, would leave individuals and partnerships subject to the normal income tax and to heavy surtaxes rising to 65 per cent on all their income and profits, whether left in the business or withdrawn from the business, whereas profits of corporations left in the business would be subject to only the normal tax of 10 per cent. Such



preferential treatment of the corporation can hardly be defended.

4. The promulgation of such a tax would raise the most perplexing problems, and would require the most invidious distinctions to be made as between classes.

a. Sales which are taxed under the existing law would have to be exempt. Most of the existing taxes on sales are at more than 1 per cent rate.

b. All sorts of political exemptions would be proposed, or have already been proposed, such as sales by farmers, and it must be distinctly understood that unless the tax is a genuine *general* sales tax the revenue will be inconsiderable.

c. Sales of capital assets — land, patents, the plant, good-will, stocks, and bonds — will cause much trouble, and sales of service would raise a troublesome question.

But leaving aside all of these very serious objections, if we adopt the sales tax there are two alternatives. Either the tax will be shifted to the consumer; or, as seems likely, under present business conditions, it would not be shifted. If it is shifted, we are transferring from the corporations a burden of some one billion dollars to the great mass of people whose incomes are less than \$2,700 a year and who spend a very high percentage of that income for the necessities of life. I do not believe such a proposition can be defended, and from this standpoint the tax is open to the objection which can fairly be urged against all consumption taxes, that is, that it is regressive and bears no relation to ability to pay. If, on the other hand, the tax cannot be shifted, then it is nothing more or less than a tax on gross income, which except in a few cases is a thoroughly unequal and inequitable tax. Aside from the fact that a tax which in many cases would run as high as 3 per cent on gross income would be altogether too burdensome for any number of businesses operating on a narrow margin, the inequality of the tax as between a business which turns its

capital once in several years and another which turns its capital several times a year is too great to be borne.

I am afraid that I have dealt with a very large subject in much too sketchy a way, but I hope that I have at least touched the high spots of the federal tax problem. You will remember, however, that aside from remedying injustices and inequalities and attempting to construct a more scientific system, this problem, as all tax problems, is essentially one of revenue. We may have passed the point where taxation is simply a question of getting the most feathers out of the goose with the fewest squawks, but we are still mainly concerned with the proposition of getting the money. If the next Congress should act along the line above suggested, it will be necessary to supplement reformed income and corporation taxes with an increased revenue from customs and with a number of special excise taxes. I should like to discuss them, but they would hardly be of interest to a state tax conference wrestling with our own very difficult problems.

In conclusion, let me congratulate you on the splendid character of this gathering, and to congratulate you and the State on the great progress which has been made in the reform of our tax laws in the last six years—a progress which I believe has been largely influenced by such meetings as this one, the constructive and educational value of which has been and will continue to be very great.

MR. JUDSON: Surely we have been enlightened by the Congressman's able paper. We all need to know more about the federal income tax, and we can look forward to the bringing up of some of those necessary changes.

I do not see Commissioner Gilbert here. He was to address us on "School Taxes." While we are waiting for him, I will call on the next speaker, Mr. Luther H. Gulick, whose name is new to most of us. He is not a new man to us in the Legislature, and I wish to say that during the operation of the legislative committee on taxation, Mr. Gulick rendered us a great service in research, and I know



that he has something interesting for us today, and that it will be of a different nature from anything we have heard heretofore.

May I ask that the Committee on Resolutions meet immediately, on the side to your left?

I take great pleasure in introducing Mr. Gulick of New York.

## ROADS TO CHEAPER CITY GOVERNMENT

LUTHER GULICK, PH. D.

*Acting Director New York Bureau of Municipal Research*

Mr. Chairman, Ladies and Gentlemen of the Conference: Some American man of letters once said, "If a man write a better book, preach a better sermon, or make a better mouse-trap than his neighbors though he build his house in the woods, the world will make a beaten path to his door." Under present conditions, it would be safe to apply this idea to express the interest which is evident on all sides in the means and methods of securing more efficient government. If any city, any State, or any school district can develop methods of securing cheaper government, though it be in the wilds of Ohio, the world will lay down a concrete highway with a twelve-inch base to its portals.

*What is Cheaper Government?* What do we mean by cheaper government? Do we mean less police and fire protection, less street cleaning, less education, less paving? Certainly not. In the main, the taxpayers are not looking for less city government, they are not looking for the elimination of municipal services. They are looking for more effective service, more return from their investment, a better bargain for their taxes. In surveying the roads that lead to cheaper government we are endeavoring to economize, not through purchasing a poorer grade of municipal service but by making our tax dollar reach farther.

*The Underlying Causes of the Increase in Municipal Costs:* The reason that we are searching the map for the road to cheaper government today is because the cost of government has risen so tremendously during the last few years. Figures that are now available indicate that the cost of city government has increased from 90 to over 100 per cent since 1914. It is worth while, perhaps, to analyze, if we can, the chief causes of this increase. Unless we know these causes, it will be more difficult to know in what direction we should cast about to find the road to cheaper government.



There are five underlying causes of the increase in municipal costs. First of these is the shrinkage in the value of the tax dollar. The extent of this shrinkage depends upon what you are trying to buy with the dollar. If you buy coke, the 1914 dollar is worth about twenty cents; if you buy paving materials, the dollar is worth fifty-seven cents; if you buy fire engines, it is worth fifty-nine cents; if you hire clerks, it is worth sixty cents, and if you are paying off old bonds, you have the pleasant surprise of finding that the 1914 dollar is still worth one hundred cents.

The second cause, frequently emphasized, is the expansion of municipal government. Many of our cities have extended the scope of their activities. They have undertaken welfare services, expanded the schools, and taken over various public utilities. The extent to which this expansion has influenced expenditures differs widely from city to city. I am confident, however, that the public has over-stressed this cause of increasing costs. There were more civil service employees in New York city in 1914 than there are today, if you exclude teachers. The same is true for the city of Yonkers, which may be taken as a more typical example. In both cities the number of teachers has, however, increased. If these facts are true of any large number of cities, it is safe to say that the number of city employees has not increased to any extent since 1914, and that the increase in the cost of municipal government is not due to the creation of new jobs or the expansion of municipal services except in rare instances.

The third cause of increased costs is the need of capital replacement and extension. During the war years, both for the sake of economy and for patriotic motives, cities postponed many necessary improvement projects. Pavements and buildings that needed repair, and water and sewer systems that needed extension, were forced to wait. Meanwhile, the urban population has been increasing faster than ever, so that the cities now find themselves forced to make unusual expenditures to make up for lost time.

A fourth cause of the increasing costs is bad financing.

During the past ten years we have begun to pay the debts contracted by the last generation before the public became sufficiently enlightened on the subject of bond issues to demand that all bonds issued be retired from tax moneys within the life of the improvement which they financed. We are trying to pay these back debts and our own debts, and as a result the burden for debt service is very materially higher.

The final cause of increasing costs that I shall take time to mention here is wasteful organization and antiquated administrative methods. A vivid picture of the situation in the State was drawn in the retrenchment section of the report of the Special Joint Committee on Taxation and Retrenchment which outlined the present governmental organization and present methods of administration in cities. Some of our city governments are still in the ox-cart stage. You can hear the machinery of government creak and groan as it moves laboriously on its way. Others are more modern, but the principle of their organization is unsound; they resemble the long fire-ladder truck which is steered both from the front and from the rear, and sometimes the two drivers have different ideas about the streets they should follow. The amount that bad governmental organization and inefficient administrative methods in city government is costing the people of this State cannot be estimated. The Davenport-Judson committee put its finger on specific economies that would save over \$3,200,000 a year in New York city alone.

*Controlling the Causes of Increasing Costs:* In our search for the roads to cheaper city government we have first tried to analyze the five underlying causes of the increase in governmental costs. We are now in a position to consider how far these forces can be controlled. It is clear that the cities can do nothing directly to increase the value of the dollar. The cities, like the individual, are in the grip of economic forces, national and international in their scope, which are determining the value of the dollar. We have already seen that there has been very little expansion of municipal government during the last six years, except



in the field of education, in spite of the rapid growth of city population. Surely there is little chance of securing cheaper government by getting rid of newly created jobs, for the simple reason that few new jobs have been created. Can we economize then by restricting our improvement projects and by delaying pavement and building repairs? In the end such a policy will be more expensive than economical. Capital replacements and expansions cannot be held in abeyance longer without irreparable injury. The chances of economy in meeting the increasing burden that has been thrown on us by the bad financing of the past generation are negligible. We come to the conclusion then that the one method of achieving greater efficiency in city government is to improve the machinery and methods of government.

*Governmental Organization:* There has been enough experimentation in the cities of this State to make clear the general principles that must be followed in developing efficient municipal governmental organization. The first principle is democracy. It may be somewhat of a surprise to you that we should consider this a prerequisite of efficient city government. The reason for this statement is simply this, if a city government is beyond the complete and continual control of the people who make up the city, it will inevitably be under the control of other groups; and if it is under the control of other groups, the people's tax money will be spent in the interests of those groups rather than in the interests of the city as a whole. Whatever the cost of such government, it is expensive government, it is inefficient government. Our American experience has proved that home rule is a prerequisite of municipal efficiency. Of course home rule will not of itself or at all times produce cheap city government, but it is the only way in the long run of giving a city the kind of government it needs and of developing in the citizenry an interest in their government that will result in better administration.

The second principle of efficiency is the development of a simplified centralized governmental organization. We have learned by sad experience that democracy cannot control gov-

ernment unless the government is simplified so that the people know whom to hold responsible. It is easy enough when you go to the circus to watch all the tricks if the entire performance is staged in a single ring, but you miss half of the tricks at a three-ring circus. Nowadays, government is a many ringed circus, and the public is often entirely confused. Centralization of responsibility is necessary not only because of this fact, but also as a means of developing a consistent plan for the administration of the many municipal functions. Every department head is eager to do more for the city. His very enthusiasm in his work makes him see the great need for added appropriations for his department, even where there are no less laudable reasons for expansion.

Our American cities must have schools, paved streets, police and fire protection, pure and abundant water, adequate sewers, the regulation of building construction, the inspection of weights and measures, and an efficient health service. It follows that they must have these services in proportion; they cannot spend all their money on a sewer system and leave none for streets and health service. The amount that is to be spent each year for each service must be determined as a part of a general plan that includes all the municipal services. No argument is needed to show that such a unified plan is impossible unless a single responsible agency is given the power to reconcile the demands of the various bureaus and departments and to draw up a complete and final plan for the entire city government. Nor is it solely a matter of drawing up an annual financial plan, unified administration is equally necessary in the day to day work of the city. Without unified control, duplicating agencies are built up, conflicting policies are encouraged, and the economies to be derived from the common use of plant and personnel are precluded. The governmental organization must be simple and centralized as a means of fixing responsibility, as a means of making possible the determination of the relative importance of the various municipal services, and finally as a means of guaranteeing that the various parts shall function together harmoniously in their daily work. Without these



three elements of sound organization city government cannot operate economically.

*Methods of Administration:* If there is one field of human achievement in which American ingenuity has gained recognition, it is in the administration of business undertakings. Our commercial enterprises, our financial institutions, and our railroads bear evidence of this fact. There is hardly a function of city government that is not paralleled in business. There is hardly a problem of public administration which cannot be solved through the application of ideas developed by American business enterprises.

The main business of administration has to do with the employment and direction of individuals, and the purchase and use of supplies, materials, and equipment. In the former field, business has developed what has come to be known as personnel administration, while in the latter we have central purchasing. In the handling of funds, business has universally adopted the accrual system of accounting, the independent auditor, and the budget system. Business has increasingly demanded that all officers and employees be specially trained and equipped by experience for their individual tasks, and many of the largest industries have developed their own training schools for developing not only the technical employee but also the administrator. American industry is able to sell rails, automobiles, and farm machinery, and locomotives and watches, and thousands of other commodities in all the markets of the world, because it has kept ahead of the world in methods of production and distribution. Not a little of this forehandedness has rested on the maintenance in the various industries of special research and efficiency staffs which devote their entire time to working out improved methods and processes and to solving the problems that arise in production. And finally, business has developed advertising and public education astonishingly.

Turning again to the problems of municipal administration, can we not say from the experience of American business, that our cities must —

1. Reorganize and expand their civil service commissions so that they will serve as personnel departments;
2. Establish central purchasing bureaus;
3. Place their accounting on an accrual basis;
4. Adopt genuine budget systems;
5. Develop an independent audit;
6. Recognize the importance of the trained administrator and the technician in government, and determine the personal policy of the government so as to offer the trained public servant the opportunity of a career;
7. Establish staff agencies which will devote their entire time to increasing the efficiency and economy of governmental administration, as was attempted under Mayor Mitchel in New York city, and is now being done in Toledo with considerable success;
8. Adopt approved advertising and educational methods to keep before the people the problems, the work, and the efforts of their government, so that they may exercise in an intelligent manner the power which is theirs in a democracy.

*Taxation and Economy:* Those of us who are gathered here are interested in economical administration because we meet the voters at the time when they pay their taxes. We are the long hand of the government that reaches into the banker's wallet, the farmer's jeans, the laborer's overalls, and the clerk's pay envelope to extract the government's tithe. We know the opposition there is in the hearts of the people to the payment of mounting taxes; we know the force and power there is in this opposition. We have not forgotten that taxes and tax administration in other times have raised a storm of discontent that destroyed constitutions and swept governments away. The Magna Charta in England, the French Revolution, the Boston Tea Party, and the American Revolution bear witness to the latent power that is to be found in tax opposition.

The problem of economy and efficiency in government is



basically a problem of harnessing these forces of tax opposition in such a way that they will bear directly upon the administration of government. To bring about this result we must revise our municipal tax system so that an important part of the tax burden will be distributed through a direct tax upon a broad base, with elastic rates which will be determined locally from year to year to meet budget requirements. Such a tax system, together with the introduction of a real budget, and a genuinely representative government so organized and so administered as to produce results, will place us on the highway to cheaper city government.

## SUGGESTION FOR RESOLUTION AGAINST TAX EXEMPTION

*Whereas*, The operation of any tax on incomes, especially on personal incomes, can only be equitable in proportion as it is distributed according to relative ability of the taxpayer;

*Whereas*, A combination of high rates and tax-exempt securities, results, as stated in the report of December 17, 1920, by a special committee on taxation to the United States Chamber of Commerce, "in the taxpayer shifting much capital from investments in industrial and commercial activities to these tax-free securities" to the extent that "there is an evil of great public consequence";

*Whereas*, The United States Secretary of the Treasury has reported that the taxable incomes of over \$300,000 a year amounted in 1916 to \$992,000,000, in 1917 to \$731,000,000, in 1918 to \$392,000,000, and says: "There is little reason to believe that the actual income of the richer taxpayers of the country has fallen in that interval"; it is the taxable income which has been reduced and almost certainly through investment by the richer taxpayers in tax-exempt properties;

*Whereas*. The present direct and indirect exemptions are breeding other exemptions to the extent that individuals are thereby subsidized at the general cost as in the case of agricultural and shipping interests under federal law, and the need for subsidy in order to compete in the money markets will lead in the direction of public ownership, single tax, and socialism, and

*Whereas*, The evident and proper intent of the federal constitutional provision is to make subject to taxation the incomes "from whatever source derived," and this cannot be accomplished so long as federal, state, municipal and "instrumentality" securities are privileged through tax exemption; be it

*Resolved*, By the Tenth Annual Tax Conference in the State of New York, that we reaffirm our opposition to the



granting of any personal privilege under the guise of tax exemption from any income tax, federal or state, as set forth in more detail in the report and resolutions of the last Annual Tax Conference.

*Resolved*, That we state most emphatically, in the words of the above-mentioned report of the United States Chamber of Commerce, that "there should be no exemption of any future issues the income from which may lawfully be made subject to tax."

*Resolved*, That we endorse the movement to obtain amendment of the United States Constitution in order to empower the Congress to tax incomes from whatever source derived, such amendment probably being necessary in view of the amount of dicta to that effect.

MR. JUDSON: Surely, we are greatly indebted to Mr. Gulick.

We are to be disappointed with regard to Commissioner Gilbert.

Now comes the report of committees; and, Mr. Merrill, have you a report to submit?

COMMISSIONER MERRILL: I have the report of the Committee on Resolutions. The committee has examined the several resolutions, which I will read. The committee has reported favorably all these resolutions. I do not know what the precedent is, whether to pass on these separately or not.

MR. JUDSON: I think possibly it would be better to act on them that way, Commissioner.

The following resolutions were read and adopted with practical unanimity:

*Resolved*, That the thanks of this Conference be extended to the Mayor and the Board of Assessors of the City of Albany, to the State Tax Department, members of the State Tax Commission and its staff, and to the officers of the State Tax Asso-

ciation, for their material aid in making this Conference a success; also to the press of the city of Albany for their generous recognition of the proceedings of this Conference.

*Resolved*, That the thanks of this Conference be extended to Professor Fred R. Fairchild of Connecticut, and John H. Fertig, Assistant Director, Legislative Reference Bureau, State of Pennsylvania, for their interest in and attendance at this Conference and for their material aid in its success.

*Resolved*, That in the judgment of this Conference the State Constitution should be so amended as to provide for the assessment by the State Tax Commission of the property of public service and public utility corporations, and prohibiting further exemptions from taxation except by general laws and by the affirmative vote of two-thirds of the members elected to the Legislature.

*Further Resolved*, That a committee of three be appointed by the chairman of this Conference to formulate such resolution and present same to the chairman of the committees on taxation of the Senate and Assembly, with the request that the same be introduced and adopted at this session.

*Resolved*, That while we favor the simplification of systems of taxation and advocate a low rate tax on a wide base rather than a high rate tax upon a low base, we are convinced by the discussions of public officials that taxpayers will be justified in making a united demand that their elected representatives shall reduce the amount of public budgets to a point where the burden can be borne without distress to taxpayers.

*Resolved*, That every department and bureau of government shall be at once reduced to its pre-war status, unless enlarged activities are shown to be justified by results of a tangible nature.

*Resolved*, That new activities of every kind and nature shall be discouraged and generally denied to the end that our state and national governments shall exercise the same degree of thrift and frugality that is now imposed upon taxpayers.

*Resolved*, Especially, that we condemn without reservation all proposals of whatever degree of merit so far as the sub-



ject matter is concerned which resulted in the increase of public appropriations through the so-called "federal aid" method. Our objections to "federal aid" appropriations are based (1) upon the principles of public finance which require effective control by legislative agents from year to year; (2) upon the weakness in our political system which permits both "log rolling" between legislators and propaganda by the managers of the "aided" projects; and (3) upon the evident belief of the sponsors of practically every movement for "federal aid" that economic and social advancement must be nationalized to the extent of a federalism which will supersede local or even state control of such vital community problems as education, highway construction, physical training, health, and sanitation.

MR. JUDSON: I wonder, Mr. President, if I may have the privilege of getting a consideration of opinion that I have. It was my good fortune to be a local assessor for nine years, and I think one of the biggest bugbears that I had was the question of personal property; and I think I strike a tender, responsive chord in each assessor when I speak of that. Last year we introduced a bill which took away from the local assessors all intangible personal property, that is, property in the form of notes and securities, bonds and stocks, moneys on deposit in banks, and so on. I do not know whether this subject has been touched upon during the conference or not, but it is too impossible, too ridiculous, to keep what we have left of tangible personal property. I just want to find out right now, because I have in mind the idea of taking out personal property, in its entirety, from the tax law. All those in favor will signify by saying aye; and those opposed by saying no.

Carried, with Mr. Vance voting in the negative.

MR. JUDSON: Well, I am going to go ahead, and if it is not passed, it will not be my fault. I will be back of it to the limit. (Applause.)

I want to turn over now to the President of the Tax Com-

mission the gavel, so to speak. He has a few words for you, and we will then close what is our third conference. I am pleased to have been here during your last meeting, and thank you for your kind and courteous attention.

MR. VANCE: Mr. Chairman and gentlemen of the convention. After listening to the eloquent addresses which have been beautified by the power given them by the benefit of the higher education, all of them having been professors, or principals of colleges, etc., etc., it would seem preposterous for me to offer to address you, but there will be this diversion, however, which may relieve the situation.

I am one of that large class, who about the time that Fort Sumter was fired upon graduated from the little red school house. At that time when if we could read fairly well in the old town's fourth reader, get away with Adam's arithmetic, Mitchel's geography and dig into Wells' and Quackenbush's grammar, just a little, we went out into the world to do business. We did not, however, go out thinking that we had learned all there was to know, but expected to get something more from the school of life, and from that as yet we have not yet graduated, and I am persuaded that I am not alone of that class in this body, and gentlemen, the men who send us here and pay our expenses have a right to expect that we will do our duty, although it has to pass without polish.

But to return to the subject under consideration (personal assessments), or, I might add, the unjust evasion of taxes.

To go back to the days first spoken of, our taxes were a matter of small consideration; our school teachers taught at a salary ranging from four to five dollars per week and boarded around the district at the different homes from which the students came, as it was apportioned, so many days for each student.



Little attention was given to personal property so far as taxes were concerned (for there was but little).

On the breaking out of the war, however, matters began to change, and they changed very rapidly; butter that had been selling for eight to ten cents per pound, went to fifty cents; wool that had been twenty-five to thirty cents went to one dollar ten, and other things accordingly.

The government had to have money to run the war and government bonds bearing 6 per cent compound interest were issued in denominations as low as ten dollars, and from there running up into the thousands. During the four years of the war thousands upon thousands of these bonds were purchased and held in the country districts.

These were exempt from taxation. This, with the exception of public buildings and a small exemption to clergymen, was the first exemption that I ever heard of. Taxes, the same as everything else, immediately began soaring. I remember my father's farm that before the war paid a tax of eight to ten dollars soon had to pay fifty or more dollars. The above exemption helped in no small way to sell the said bonds, and under the circumstances no one objected, and the purchasers enjoyed this privilege, but there was an end in sight. The war was over and in a few years the bonds began to be paid off. Leaving out the historical part that might be interesting, concerning the re-issuing of other bonds bearing a less amount of interest, etc., time will not permit me to give.

The men who had enjoyed the privilege of not paying interest soon began to devise other ways to evade it, and when the ordinary bonds and mortgages were placed on the tax roll, the cases were not few when some men came before the board of assessors and swore to a false statement to avoid paying the tax, but that system was not satisfactory; it sometimes worked bad.

However, they did not propose to part with the exemption that they had enjoyed so long. Perhaps they did not have the brains to work out the scheme themselves, but they had the money and could get the legal talent in the country to

figure it out. And they also had some political influence that would help to win over the members of Assembly and Senators. And a law was passed to allow the mortgage holder to pay to the county treasurer one-half of one per cent on the amount that was unpaid on any mortgage that he might have on record each year. This went through so easily they seemed to be satisfied, as they had escaped at least two-thirds of the tax that they should have paid. After two years, however, it seemed to these men that as they had got two-thirds of their taxes so easily, that there was another way that they could get rid of the rest of it, therefore circular letters were sent out all over the State asking the parties addressed to reply to the question, "Would you prefer a recording tax law to the present mortgage tax law," or language to that effect.

I venture the opinion that not one in twenty-five of these letters was ever answered, the average person giving it no consideration whatsoever. But the parties who owned the mortgages quickly saw the point; it was just what they had been looking for, and undoubtedly nearly every one of these men answered that they would prefer a recording tax law. With this information on hand, the lobbyist could go to the legislature and show him one of the documents that had been sent out and could say to him (truthfully no doubt) that ninety per cent of all persons answering them wanted the change.

At any rate the change was made, and therefore the millions (I think I might say billions) of dollars' worth of mortgages now on file in our county clerks' offices is not paying one cent of taxes.

The one-half per cent that the owners paid at the time the mortgage was recorded was less than one-third of the amount of tax that he would have had to pay in one year if the said mortgage had been placed on the assessment roll.

This, with all the other exemptions, that are made which I will not try to enumerate, has made the tax on real estate very burdensome.

The richest man in my home village (Norwood) is esti-



mated to be worth more than two hundred and fifty thousand dollars. His name does not appear on our assessment roll at all, and there are many others who escape in the same way.

Now here there seems to be something started that would take away the few dollars that we are able to find, which we notice particularly on our school taxes.

For my part, I would favor a law that would put every dollar that appears on our county clerks' books as mortgage investments, on the tax roll, at seventy-five per cent of their value every year.

Gentlemen, I thank you for your attention.

COMMISSIONER JOHN J. MERRILL: Ladies and Gentlemen: You have listened during this conference to a very considerable number of very practical statements. I am afraid that what I have to say to you is perhaps a little theoretical; but I have tried to bring to you some thoughts that I have myself with relation to our tax system.

Senator Davenport last evening made some statements with relation to the existing condition of our New York state tax system, in which he said that great improvement had been made, and that further improvement would be made. I want to say that from my study of the subject I believe that in many ways we have the best system of any State in the Union; but I have to set over against that the statement that there is not a State in the Union that has anything which can reasonably be called a satisfactory tax system. That is the unfortunate phase of the whole situation. And so from that point I want to leave a few thoughts with you, and in doing it, let us go back and see the territory over which we have been traveling for the last two thousand years. We are going over it with an airplane, and are not going to take two thousand years to review it.

I would like to ask the gentleman from Norwood if he has thought of all the points involved in this subject. I will just state a few points:

If there was a man in Norwood and he had \$100,000 worth of property, intangibles, I mean — notes and bonds, etc., and he was a married man, he would get, if his income producing securities produced \$6,000, a tax of  $4\frac{1}{2}$  per cent on \$4,000, and he could not escape it. Therefore, not all of his intangible property is exempt. Now, don't you think it is a fair statement that no personal property can stand a rate equivalent to that levied on real property?

MR. VANCE: Well, there is some personal property that can stand more.

COMMISSIONER MERRILL: I doubt it. If you use an average rate of 2 per cent, and you had a 5 per cent bond, and you put a 2 per cent tax on a 5 per cent bond, you would take *forty per cent* of the income, gross. That would not be very fair.

MR. VANCE: Well, the man I refer to is worth a quarter of a million dollars. I know that to be a fact. While I am one of the assessors of my town, I am also clerk; and this man, worth a quarter of a million is assessed something like seven hundred dollars.

COMMISSIONER MERRILL: Can you tell me how much the Village of Norwood gets out of income tax?

MR. VANCE: It is in the neighborhood of \$2,000.

COMMISSIONER MERRILL: That practically represents income from personal property?

MR. VANCE: Well, it comes largely from the automobile licenses.

COMMISSIONER MERRILL: O, no: You have the wrong idea. I am talking about the tax return to the Village of Norwood from the State under the personal and corporate income tax.

MR. VANCE: I am talking of the check we get from our county treasurer. Part of it is from income tax, I know that.



COMMISSIONER MERRILL: It is all from that.

MR. VANCE: Well, I regret very much that I did not get those figures and bring them with me.

COMMISSIONER MERRILL: But you are getting a very considerable income in that way that you never used to get.

MR. VANCE: Not a great deal. All we get from the mortgage tax law amounts to \$150. Now there are three different sources that we get from the county treasurer.

MR. FRANK W. HILL, Assessor, Victor, Ontario county: I would like to ask for a comparison of income from mortgages toward the total income. A farmer has a farm worth \$2,000 or \$3,000, he is paying taxes on the whole of it, and under the mortgage tax law not paying anything on it, comparatively speaking, at all.

COMMISSIONER MERRILL: The answer to that is, that neither of them pay any taxes until they get up to \$2,000.

A VOICE: It is the small man who gets it in the neck.

MR. HILL: I am heartily in accord with this resolution for the cancellation of the assessment of personal property, but a question arises. Just to illustrate: A tenant on a farm, we will say, has \$2,000 worth of farming implements and \$3,000 worth of fine stock. There is no listing of assessment against him. That \$5,000 valuation of personal property is passed by. The whole of a small farm worth \$1,000, adjoining, pays the full tax on \$1,000 valuation. It is a question of inequality and how to rectify it, and yet it seems to me to be a practical impossibility to value the personalty throughout the town. How could we answer such a question as that?

And then another question which I handed in to Mr. Rockefeller, too late to be responded to: Has there been any practical census followed by other States in listing personalty for assessment by the form of affidavit filed with proper officials? Couldn't something of that kind be acceptably followed here, and so gather in this personalty throughout the towns for assessment purposes?

COMMISSIONER MERRILL: I do not want to keep talking, but I do want to say this in answer to your first inquiry: The local assessors in the tax districts, not only in this but in other, every other State, have paid so little attention to the oath they take before God Almighty that they have not ever put that property on the tax-roll. I put that to you as an assessor.

MR. HILL: It is a question of time.

COMMISSIONER MERRILL: You know whether your neighbor has three cows or six; and if you don't get them on the tax-roll, you know you have not done your duty. That has been the answer to this problem all over this country. And wherever you catch a widow with a couple of thousand dollars of insurance money, put her on at the full rate that realty is getting; and you know she cannot stand it.

For the other proposition, that the local assessor is not to blame for: There are vast quantities of property in almost every assessing district, which the assessor is not familiar with the value of. He loses there. It is a fact, that the taxation of personal property as such, so far as I know, has practically fallen down in every State in this country. This need not be so under a proper tax law with a proper tax rate for personal property. There seems to be no way to get the assessors to take it up and put it on the tax-roll. You ask for a remedy. I think perhaps the remedy could be reached if we could ever get the people into a state of mind where they would be willing to have a county system of taxation. In a county where you would have, perhaps, four or five elected assessors, so that they would not know anything about the neighbors' property that they were going to assess, no friends or political advisers; or five men elected for five-year terms, allowed to roam over that county — at the end of five years I think you would have some of this property. But just as soon as his tenure of office depends on where the other fellow



can get him at the polls, you will not get it. I am human, just like the rest of you, and I know how to sympathize.

MR. HILL: I take issue on this one point. It is not because the assessors did not do their duty, nor because of neglect of their opportunity. The assessors are business men in other interests, and they get a fee that is utterly ridiculous. They cannot get out and list these small items of personal property in the town under the present requirements, unless they give it their sole attention and receive living salaries. It is a practical question of economics.

COMMISSIONER MERRILL: Do you know any man in your town that you believe has got \$100,000 worth of personal property?

MR. HILL: I wouldn't want to say that I know any possessing that amount.

COMMISSIONER MERRILL: What is the largest single amount that you know of?

MR. HILL: We will say \$50,000.

COMMISSIONER MERRILL: Was \$50,000 ever assessed against anybody in that town?

MR. HILL: Not that I know of.

MR. EDWARD L. FAY, Waddington, St. Lawrence county: I was much surprised at the one lone man who voted in the negative. When I was coming down I asked him how much personal property they had on the rolls for the town of Potsdam. He told me he thought less than \$50,000. I think he will be glad to have Mr. Judson have that wiped out, so that he will not be bothered with that \$50,000. I come from a town not nearly as large as Potsdam, where we have over \$50,000, and I am sure it will be a relief for me if we can have it removed entirely.

MR. S. A. SHANTZ, Assessor, East Rochester, Monroe County: I came here especially to learn something about the Personal Property Law. I must confess that

I leave here more confused on this point than when I came. In our town we carry approximately, in round figures, \$130,000 in personal property on our town roll. The total assessment is a little over \$8,000,000. Now, if the practice is to be, gentlemen, that we are to do away with personalty we want to give our town the benefit. However, I am satisfied that had we not other duties to perform in connection with the assessment of realty and personalty, we might have found \$500,000 instead of \$130,000 personalty in our town. Other matters take up our time, such as looking up dogs, finding their color, breed, and sex, and all that sort of thing. You will find fifteen dogs on one street, among foreigners, collarless and tagless; and you go on the next street and duplicate this performance, no one claiming ownership; and when you finally get a list to the authorities, they go around and notify those whom they can locate, and a scare is thrown out — dogs become scarce for a few days. And the next season repeat the performance. The number of dogs actually shot for having no license tags is negligible. Listing bee owners is another matter which takes some time.

Checking up on public service corporations over eighty-one miles of highway, besides two incorporated villages, requires time.

I want to find what the sentiment is in regard to canceling the personalty altogether. All motive power and car equipment on all steam and electric railroads, having their main offices in this State, were to be assessed at such main office under the Personal Property Law. I hold no brief for the railroads, but if they have been assessed full value on their personalty, they have also been unfairly assessed. In other words, wiping out the personalty entirely will lose to the State of New York at least \$3,000,000,000 of a taxable source for revenue, and will load a large part of this on the already overburdened realty.

Briefly, my contention is this: that the Personal Property Law is an enforceable law, but is not enforced; and as



it stands now, as regards performance generally, works an inequity.

Now, gentlemen, I like the commissioners, from the first to the last. Their attempt to clarify matters for assessors has been genuine, but it seems to me that we are mixed up with a different aggregation; and we come here from all points of the State and are credited with about thirty minutes of time in discussion, and we get a little on the last end of the session in voting, as assessors, on recommendations made by the resolution committee of the State Tax Conference. But as assessors we have not had much chance to discuss our local problems. I believe the assessors should be given more time for discussions in these conferences, say two full sessions, and that they have written questions submitted at least fifteen days before conference. And if the notices for these conferences were sent out earlier and had printed question blanks enclosed it would help a great deal, so that they could be properly tabulated and the Tax Commission be given time to prepare answers for these questions and bring these points up in open discussion. That is not asking too much; I think we are entitled to that, gentlemen.

We have an assessors' association in Monroe county, of which I have at present the honor of being president, and we feel after coming home from this conference that we shall have only local problems to talk over, but regret that the Personal Property Law leaves us as much in the dark as ever. We listened patiently through all the sessions of the conference, and I wondered, sometimes, whether we considered ourselves a law-making body or one for enforcing existing laws.

We have a number of different forms and angles of taxation that we have to contend with, and we ought to be able to explain them to the taxpayers, especially in the light of increasing taxation, but have failed so far to get much information on the subject, and have no explanation now forthcoming that will take the place of Personal Property Law, should that law be retired from the Tax Law.

In conclusion, I am speaking at this time in the hope that at our future conferences, assessors may have more time given over to them as assessors.

MR. JUDSON: I want to inform Mr. Shantz that in drafting this bill I thoroughly intended to leave out public utility companies which he refers to. The New York Central Railroad Company, incorporated in the State, has a central office here in Albany, and is assessable for personal property here. And several other large corporations which are incorporated in our State are assessable for the personal property at their places of business. And surely we would not want to overlook that, and I should have mentioned that when I spoke.

I feel very sanguine on the personal property question, because, granting that in the town where Mr. Shantz lives, if he is assessing people in his town as he says he is for personal property, I know that the people in his town are having an injustice done them, because, coming from Monroe county, I know a great many towns that do not have any personal property on the rolls; and it is an injustice to the citizens living in your town to be penalized by a tax on a piano, a victrola, or an automobile, when nine-tenths of the towns have nothing on the assessment-rolls of this nature. So, although you are executing your duty, nevertheless you are penalized because in other towns they are not getting any personal property, and this is the very inequality we want to get rid of.

MR. VANCE: My good friend from Waddington referred to what I told him, that we had a small amount of personal property in our town that I did not think would exceed \$40,000. He replied that he did not understand how that could be, as their town, not nearly as large as the town of Potsdam, had over \$100,000. They have a large number of islands in the St. Lawrence river owned by rich men in New York City, who keep steamboats and other personal property there, and who spend a part of the summer on these islands. I see no reason why these millionaires should be exempted from paying a personal tax.



The income tax law is what has taken away the greater part of our personal tax. We have good business men in our section and nearly every one of them pays an income tax, and that of course exempts them from personal assessment. I take it for granted the men in Waddington are good business men.

MR. FAY: They may be assessing in their town, but several others have no personal on their rolls, and we are penalizing our taxpayers where there are towns where there is no assessment at all for personal property.

MR. WALSH: When I told Assemblyman Judson that I had a few words to say before the closing of the conference, I just had in mind to, in your behalf, express to him the thanks of the conference for his presence here. I think that Assemblyman Judson evidences the fact that he is a good public servant, of the kind that we need in public office, by attempting to get this expression of opinion; and I think he paid this gathering a great compliment when he, as chairman of the committee, occupying the position which he does, put that matter up to you and had such great confidence in your views on the subject. It is such procedure that will bring about the best results.

I also had in mind to touch upon the very point that Mr. Shantz referred to. My observation has been, that while our addresses have been very excellent, and we have been given the opportunity of listening to very fine discussions, I do not regret that a feature which seems generally to be regarded so desirable was thus curtailed by reason of adjournment this morning. The open discussion of local problems did not have sufficient time. The round table and question box should have more time allotted them. It does seem to me that the Tax Commission, after two or three conferences, would do well to give at least half a day to assessors for that open discussion of their questions; because assessors do come here and ask questions, and the discussion among yourselves brings out very many good points. I hope, indeed I feel, that the State Tax Commission, in arranging the next conference,

will bear in mind, and allow time for the round table and question box feature of the programme.

The resolution adopted by this conference permits me, as chairman, to appoint a committee to present to the Legislature the resolution adopted regarding the state-wide assessment of public utilities, and it gives me pleasure to announce the names of the gentlemen selected for that committee. They are Walter H. Knapp, former President of the State Tax Commission; John J. Merrill, State Tax Commissioner, and Francis A. Willard, Secretary of the Home Rule Tax Association. They will prepare the resolution and present it to the proper officers of the Legislature.

And now, gentlemen, it has been a rare pleasure for me to again meet all of you, and to have the opportunity of talking personally with you, meeting you face to face, and enjoying where possible, that pleasant handshake that we have had. I trust that your stay has been enjoyable to you and that it will prove helpful in your work. I was particularly glad to hear the indorsement, particularly by one who occupies the position that Assemblyman Judson does, and who has such a clear knowledge of the situation, as to these biennial conferences. The State Tax Commission is gratified, the officers of the State Tax Conference have expressed their gratification to me, and that is true also of the committee of mayors who were with us for so short a time because of their own conference. A number of those men have expressed their satisfaction.

Now, I presume that many of you are planning to get away on afternoon trains, and therefore I declare the conference closed, and wish you a very pleasant journey home.

Conference adjourned at 4:30 P. M.



FOURTH STATE CONFERENCE  
OF  
LOCAL ASSESSORS  
AND  
ELEVENTH STATE CONFERENCE  
ON TAXATION

ALBANY, NEW YORK  
February 20 and 21, 1924

ADDRESSES AND PROCEEDINGS





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APPOINTED BY THE STATE TAX COMMISSION

LEWIS K. ROCKEFELLER, *Chairman*

CHARLES J. TOBIN

ALFRED E. HOLCOMB

DANIEL R. SPRATT

WILLIAM J. WHITE

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# STATE TAX CONFERENCE

## NEW YORK STATE TAX BULLETIN

Issued at the State Tax Department at the Capitol, Albany, N. Y.

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# ELEVENTH STATE CONFERENCE ON TAXATION

## FIRST SESSION

Chancellor's Hall, State Education Building, Albany, N. Y.

WEDNESDAY MORNING, FEBRUARY 20, 1924, 10:22 A. M.

Conference called to order by John J. Merrill, State Tax Commissioner.

Introduction of Mayor William S. Hackett, of Albany.

Address of Welcome of Mayor Hackett.

Reply by State Tax Commissioner Mark Graves.

Reply on behalf of New York State Tax Association by Mr. Charles J. Tobin.

Announcement of permanent officers of the conference.

Adoption of rules of procedure.

Announcement of committee on resolutions.

Field work of local assessors, by George B. Elwell.

Discussion.

Farm Statistics, by George L. Flanders.

Discussion.





## FIRST SESSION

WEDNESDAY, FEBRUARY 20, 1924, 10:22 A. M.

Conference called to order by State Tax Commissioner John J. Merrill.

MR. MERRILL: Gentlemen of the conference, I wish first to acknowledge the great honor that you have conferred upon me in calling on me to preside over this fourth state conference of local assessors and eleventh state conference on taxation. This is one place where the assessor is welcome! (laughter). It may be it is the only one (laughter).

I do not think there is any more pressing question before the American people today than that of the solution of the local tax situation. The program which has been prepared for this conference is wide in latitude, and I believe that wise selections have been made in choosing those who are to present the various papers and subjects to you. It is the hope of the conference that you will not hesitate, any of you, to express your opinions. Very much good can come out of a conference like this, to yourselves, to the State Tax Association, to the State Tax Department and to those whom we at least hope to serve.

The city of Albany is a fine old town,—one of the best in the world. Now, it is not for me to welcome you to this city. I have not the keeping of the key. But we have with us today Mayor Hackett, of the city of Albany, who, I am sure, will extend to you a most cordial welcome, not only to the city, but to all that is profitable and pleasant within its walls.

I have the honor and pleasure of introducing to you the Hon. William S. Hackett, Mayor of the city of Albany.

MAYOR HACKETT: *Mr. Chairman, State Tax Commissioners and Assessors of the various municipalities of the state of New York.—*

I assure you that it is a great pleasure for me to be here this morning and welcome such a large assemblage as is gathered here to our city. As a rule, I think, one of the large duties of the mayor of the city of Albany, probably more so than the mayor of any other city, is that of welcoming delegates to various annual conventions, which are so frequently held here in this city. Usually these meetings are called, as yours has been, at ten o'clock, and at the opening, as a rule, you are lucky if you welcome ten or fifteen delegates. They arrive mostly at four o'clock in the afternoon or sometimes next day. This large assembly here bespeaks the deep interest which you men who are holding the office of assessors take in your duties. I believe the gathering together annually in session, and more frequently if it could be done, of those who are interested in the various things that pertain to their duties would be profitable.

We have in the city of Albany at the present time the conference of mayors, which undoubtedly you all know about,—our midwinter conference at the city hall. We had quite a number of mayors there this morning who arrived through the big snow storm. We wish there had been more, and that the session in the city hall was as large a gathering as your meeting here.

The mayor of a city, naturally, is interested in all the departments pertaining to the good government and to the prospect of his city. But I think the one of all departments wherein good judgment and earnest labor, are necessary, is the assessment department. It is condemned more than any other department, particularly if the duties are performed honestly and justly. If there is one thing that I would like to say to you assessors this morning it is this: Do your duty honestly, uprightly, assessing property equit-



ably, one as against the other, and let those who dare condemn or who want to condemn, continue to do so! You will have the feeling that you are doing the right thing. I know, as mayor of the city of Albany, it is a vital question here today to equalize our assessments. It is a hard duty, and there is no doubt about it, for assessors not to be influenced in many ways. But, men: stand up! Do your duty! and you will, in your office, prove a benefit to your communities, by so doing!

I welcome you here. As I look around the room, the thought that comes over my mind is this: I wish we could keep every one of you assessors here in Albany all the time, so that we could have the benefit of your knowledge and your experience day by day. But no such good fortune can come to us.

We are certainly glad that you are here this morning. We hope your stay will be pleasant and we trust that when you leave Albany you will feel, as the chairman said a few minutes ago, that we have a pretty good old town!

I thank you.

MR. MERRILL: Gentlemen, it has been called to my attention that we were a little bit late in getting on the platform this morning. Over across the street, in the State Tax Department, we tell our people that if they are late they are going to lose some of their time rating, and as a result their standing will not be so good in the service record ratings. Personally, I shall be through here this morning, so I am not going to have any further responsibility in the matter; but I know that President Gilchrist is going to expect all you fellows to be on time after this. Let us be prompt at these meetings. We are not going to have any more time than we need to discuss the questions in which we are all interested.

I have the pleasure and the honor to introduce to you Commissioner Graves, with whom most of you are ac-

quainted, and who will respond on behalf of the State Tax Commission.

MR. MARK GRAVES: *Mr. Chairman, Mr. Mayor and gentlemen of the conference.*—It is my privilege to respond to the mayor's very cordial welcome to us on behalf of the State Tax Commission. It was the duty of the State Tax Commission to call this conference. We gave thoughtful consideration to the best location for it, and finally decided upon the city of Albany. We believe that the atmosphere of this good old Dutch town and the influence of this beautiful education building in which you are all part owners will contribute materially to the success of the conference; and while I am speaking of atmosphere, I might say that atmosphere is about the only kind of invigorator that Mayor Hackett permits to be distributed in this town now days.

You gave us a very cordial welcome, mayor, and we appreciate it. I am sure the delegates here assembled appreciate it, and we thank you for it.

MR. MERRILL: I also have the honor and pleasure to introduce to you Mr. Charles J. Tobin, the vice-president of the New York State Tax Association, whom I shall ask to respond on behalf of that association.

MR. TOBIN: *Mr. Chairman, Mayor Hackett, and members of the conference.*—The State Tax Association is glad indeed to accept the welcome of the mayor of the city to this conference.

Albany is the best place to have a conference of any kind, and it is particularly well adapted for the holding of a state conference on taxation. It is well to have the conference here during the legislative session, because you can personally carry the message of needed legislation to the members of the Senate and Assembly, and especially to those members who have to do with tax law and tax administration.



It is regrettable that Congressman Mills, on account of his duties in Washington, is unable to speak to you personally as president of the association. As his substitute, I have one message at this time: that all assessors and local tax officials become well acquainted with the State Tax Commission. Let each one make a good contact with the supervising department at Albany,—not with any idea of taking away from your job or your prerogatives, but to help you do your work and exercise your judgment in the best possible way. The state today is fortunate in having a State Tax Commission that is well manned and able to handle every problem on taxation; and I feel sure that if you men who have to do the basic assessment and valuation work back home will seek the aid of the State Tax Department, it will assist you to do your work legally and correctly. I am sure that the state will be better, and that the work that you have to do will be more correct, more equal and more satisfactory to all.

I thank you.

MR. MERRILL: I wish at this time to announce the selection by the conference committee of the permanent officers of the conference:

Chairman, John F. Gilchrist, President State Tax Commission.

Secretary, Kenneth D. L. Niven, clerk, board of supervisors, Monticello, Sullivan county.

Stenographers, John M. Turner and Lila R. Papen, of the State Tax Department.

Now, gentlemen, I have the honor and great pleasure of introducing to you the permanent chairman of this conference. I have not known him so very long, but I do feel that I now know him very well, and I want to say to you that I commend him to you. I am not going to say the nice things that I might say, because I would probably make him blush if I did; but there is no good word that I could

say to you that would be more than worthy of my esteemed colleague, the Honorable John F. Gilchrist, who will be the presiding officer of this conference, and to whom I now introduce you,—President Gilchrist.

CHAIRMAN GILCHRIST: *Gentlemen of the conference.*—It is indeed a high honor to be chosen as permanent chairman of a conference such as this, and I would be lacking in appreciation if I failed to tell you how greatly I esteem the honor, and at the same time how clearly I recognize the responsibility.

As the announcement informs you, this is the eleventh state conference on taxation and the fourth conference of assessors. If we may be allowed to judge by the proceedings of former conferences, we can, I think, anticipate great benefit from the ideas to be presented here by experts on taxation, and we are bound to have our outlook broadened by the discussions in which all of us are free to participate.

On behalf of the State Tax Department, the State Tax Association and officers of the conference, I bid you welcome. I trust that you will enjoy your stay in the capitol city, even in this season of midwinter.

Our mission in attending this gathering is a serious one. The questions we are met to discuss are important to the welfare of the state of New York, and we may certainly expect to increase our store of useful knowledge.

Considering the comparatively brief period allowed the conference by a program involving subjects of such vast importance, and where so many active and keen minds are challenging each other in debate, my only fear at the outset is that we may be pressed for time. Therefore, I urge upon you at the opening of the proceedings the necessity of adhering strictly to the schedule and faithfully observing the limitations suggested by the program committee. Conciseness should be the keynote for the conduct of the debates. As your chairman, it will perhaps be my chief contribution



to set the example in this respect, and I assure you that during the proceedings of the next two days I will not consume any more of your time than will be absolutely necessary. I cannot refrain, however, from saying that the problem of equitable taxation is the gravest that confronts our commonwealth today, and merits the most careful attention that thinking men can give it.

While we are here to discuss both the theory and practice of taxation, it will be well for us to resolve at the start to confine ourselves as closely to the consideration of our own immediate problems as is possible.

First on the order of business will be the adoption of rules of procedure. The conference committee has proposed a set of resolutions, and I will ask the secretary to read them.

Rules of procedure are read by Secretary Niven as follows:

I. The program as printed and distributed shall be adopted and followed, with such modifications as may be required by reason of absences or other causes.

II. The usual rules of parliamentary procedure shall apply to the deliberations of the conference.

III. The discussions shall conform to the purpose stated in the circular of invitation to the conference.

IV. Addresses shall be limited to fifteen minutes and speakers in discussion to five minutes each. Each speaker shall be warned two minutes before the expiration of such period.

V. In general discussion, each speaker shall be limited to five minutes and no person shall speak more than once during the same period of discussion until others desiring to speak have been heard.

VI. A Committee on Resolutions shall be appointed by the Chair.

VII. All resolutions shall be put in writing and read to the conference and shall be immediately referred to the Committee on Resolutions without debate.

VIII. No address or statement from the floor shall be taken as the expression or opinion of the conference, except such statements as may be presented in a report of the Committee on Resolutions, and adopted by a majority vote of those present.

The chairman called for any further resolutions, and, none being offered, the question of adopting the rules was put to a vote and unanimously carried.

CHAIRMAN GILCHRIST: Pursuant to rule 6, the following committee on resolutions is appointed:

1. Seth T. Cole, Deputy Tax Commissioner, chairman.
2. A. E. Holcomb, Secretary and Treasurer of the National Tax Association, New York city.
3. Charles J. Tobin, Vice-President, New York State Tax Association, Albany.
4. Joseph J. Hart, Deputy Commissioner of Taxes and Assessments, New York city.
5. William S. Bull, Chairman of the Committee on Taxation of the Westchester County Chamber of Commerce.
6. Hoit N. Park, Assessor, town of Chatham, Columbia county.
7. Laura S. Van Voast, Assessor, city of Schenectady.
8. Benjamin Blydenburgh, Assessor, town of Huntington and village of Northport, Suffolk county.



9. George Ebling, Assessor, town of Manlius, Onondaga county.

CHAIRMAN GILCHRIST: The meetings of the committee on resolutions will be subject to the call of the chairman, Mr. Seth T. Cole. The chair has some announcements to make before we enter upon the reading of the papers and subsequent discussions.

Each person attending the conference should be sure to register. When he does so, he will receive a badge, and will be in position to receive the latest information relative to the conference. Also it is important that he register so that any important messages delivered at the conference may be speedily delivered to him. Subsequently you will each receive a printed copy of the proceedings of the conference.

One of the most important factors of the conference will be the question box, and we earnestly request you to put your questions in the question box before the end of this afternoon's session, that they may be gathered together and opportunity given for the preparation of proper answers to be made to-morrow morning.

I said that conciseness should be the keynote of the talks. In the general discussion each speaker is requested to state his name, his official title and the name of the district he represents. The superintendent of the building has requested that there be no smoking, and I see that this request has been uniformly observed and I ask its continuance.

The first speaker on the program is Mr. George B. Elwell, of Wellsville, Allegany county, whose subject is field work of local assessors. Mr. Elwell has served as assessor and president of the village of Wellsville, and as assessor and supervisor of the town of Wellsville. He is one of the pioneers in the full value assessment of property for taxation purposes. Mr. Elwell.

## FIELD WORK OF LOCAL ASSESSORS

GEORGE B. ELWELL

*Assessor, Wellsville*

I wish to thank the president and State Tax Commissioners for their kind invitation to attend this conference, and the privilege they have extended me of addressing you for a few moments on this important subject, "Field Work of Local Assessors."

I assume when our State Tax Commission arrived at their decision in making up their program for this conference, and this subject was to be handed me, they thought I would come down here this morning and tell you all that has happened up in Wellsville and Allegany county in the last five years on this question, in just fifteen minutes.

As a local assessor, if I were to relate to you all my ups and downs, and all the pleasant and unpleasant experiences during my ten years in this work, the time allotted for the life of this conference would not allow me to cover them all. In the short period of fifteen minutes accorded me this morning, it would be an impossibility for me to any more than attempt to touch upon only a few of the high spots of this subject.

The first and most important part of our work, as I see it from my experience, is cooperation.

There is not one assessor in this room today that will live to see the property of this state properly assessed, and justly equalized without it.

The fear and danger that lurks in the minds of the small property owner, that he may pay more, and the greed and selfishness of some of the larger ones that they must pay more, can only be destroyed through cooperation with the



parties concerned. In my home county, the supervisors and assessors in the last five years have become almost a unit on this subject. I attribute a large part of our success to being able to destroy through cooperation a larger part of that fear and selfishness that existed among us a few years ago.

Our assessors found in the early days of their efforts in trying to obtain proper and equitable valuation of property in the various tax districts that they must have the cooperation of their supervisor and taxpayers as well. Through this cooperation, we have in the past five years, from my viewpoint, made a most wonderful advance towards bringing about equitable assessments of our various properties.

The first thing that confronts the local assessor, after he has applied equitable assessments to his own town property, is the equalization committee of his county, through his own supervisor. Naturally, assessed valuations have increased very rapidly, if the assessor has performed his duty as the law requires. Unless he can go before his county equalization committee with some degree of confidence, through his supervisor, and obtain just and impartial equalization for his town, then the object of these conferences, as I understand them, must ultimately become a failure.

It was in the spring and summer of 1919 that our town board of assessors arrived at the decision to finally place the property of the town of Wellsville on the assessment roll, justly equalized and at 100 per cent of its true value as the law requires. Our decision was reached largely through the holding of many conferences with the taxpayers themselves, home owners, farm owners, and the small business man. You can hardly measure the value and benefits derived from those meetings. They opened up their minds, gave them something new to talk about, and gradually they began to realize that they were a part of this great system of taxation that goes to maintain their government. I doubt

very much our ability to put over the 100 per cent proposition all in one year, had it not been for the time spent with those people. They learned to take a hand in their own affairs, and they did it wisely. They learned that what they wanted was relief in taxes, and they got relief. They learned what they wanted was justice, and they got justice. They learned what their government wanted was cooperation with the people, and they got cooperation.

When our field work was completed and our book checked up, the next big problem that confronted us all was moral courage and manhood. Could we maintain at grievance time what we had gained through those months of labor?

We had discovered nearly four million dollars worth of property value that up to this time had never been assessed, and remember, had never paid one dollar of tax.

The air was blue in Wellsville, and excitement was running wild.

*Believe me, gentlemen,* when I say that no future can dim my memory of those long days in August, 1919. Just three weeks from that day we closed our books. The battle was over, and the people were victorious. We did maintain through courage and reason, the values we had made through those long months of labor, and they remain there today, and the people of Wellsville are contented and happy, and have no desire to return to that old system, void of reason and justice.

I am sorry to say we were very much displeased at first with the credit we received at the hand of our county equalization committee. But, through the wise judgment of the State Tax Commission, by applying reason and cooperation with all concerned, our differences were soon adjusted very satisfactorily and remain so up at the present time.

The people of Allegany county today are working their way slowly, but surely, out of that dark forest that has held in its embrace so long that old system of shame and dis-



grace. In the last five years, we have increased the assessed valuation of our county 63 per cent. Can any *other* county in the state say as much?

In 1919, our state and county budget was \$160,000. In round numbers, Wellsville's tax rate for that year was \$8.78. In 1923, our state and county budget was \$310,000. In round numbers, Wellsville's tax rate for this year is \$7.36, just \$1.42 less, with a budget almost doubled. Do you think there is a reason that could be given to the people of Wellsville that would induce them to return to the old system of assessing property? *No! Never!* Is there any good reason why the property of this state should not be equalized and assessed on 100 per cent of its true value, as the law requires? In all of my experience, I never have been able to find a reason why any assessors should not obey the law of this state in performing their duty.

Once more, we are afforded the opportunity through the generous calling of this conference by our State Tax Commission, to build ourselves up to a better understanding of our duty, by carefully following the deliberations of this conference as they progress. So at the close, we can return to our homes and enter upon our duties with a stronger faith and better understanding of the high responsibilities that rest upon us.

Gentlemen, this is a great and splendid work which the people of this state have entrusted to our keeping. It is a vital one. It goes to the very root of our civilization.

If we fail to safeguard and honor this trust by not obeying the law of this state of New York, then the people will have but little hope for better conditions than exist today.

In your hands, my fellow assessors, rests the responsibility that will bring the birth of a new day to our people, and with it *Equality* and *Justice*.

CHAIRMAN GILCHRIST: A discussion of the paper just read by Mr. Elwell is now in order. Does anyone desire to discuss this question?

We have received a telegram from Mr. Henry R. Dewitt, clerk of the board of supervisors of Ulster county, shown as the next speaker on the program, who advises us he is unable to be present at this session. He promises, however, to attend a later session, and his address will be deferred until that time.

We have substituted for Mr. Dewitt, the Honorable George L. Flanders, of the State Department of Farms and Markets, who represents State Commissioner Berne A. Pyrke. Mr. Flanders will address the conference a little later with respect to crop statistics.

MR. TOBIN: I think the time we now have until the closing hour of the morning session, and especially with the large number present, could be profitably spent in earnest discussion of Mr. Elwell's paper. It should be thoroughly understood that any person present who has a particular question to ask or to discuss, or who wishes to advance a problem should take it up in this forum. There are many phases of the field work part of assessments. Let me start out by asking whether your town adequately provides you with the necessary conveniences for doing your field work, and whether they furnish the necessary field equipment; whether you have to canvass your entire town within two weeks' time; whether the town board decrees that you will be paid for only a certain number of days to cover the town. Now, if you are met with those particular situations back home, take them up and discuss them here. Have you adequate machinery with which to do your field work? Does your town board limit you to a given number of days to cover your town? Is this time so allowed sufficient to do a real job? Stand right up and discuss these questions and then follow through with the other parts of your job in field work.



I do not believe there is any part of the work of a local assessor quite as important as field work; and when I was counsel to the tax department, the local assessor's job was harder than it is now.

Talk on two things,—equipment and time. Get right into the spirit of the conference. You are here, all set to do this work. Let a number get up, and start the discussion.

MR. I. P. VANCE, Norwood, town of Potsdam, Saint Lawrence county: I want to speak first of what the gentleman said in regard to a perfect assessment. In the 16 years that I have been on the job, I have never made an assessment of perfect satisfaction to myself or to anybody else. But I found one thing: A great many people think that a high assessment is what makes taxes high. That is erroneous. When I was here three years ago, I talked to a man down near the Pennsylvania line who was assessed about 25 per cent on his real property. He said his assessment was about three and one-half per cent on the town. Now, as we all know, we must have just so much money to run our government anyway, and, should our decimal be small, it means that the valuation is higher, and vice versa. There can be nothing gained by assessing property at less than its real value.

The question of real value, of course, is a hard one. The price that a place brings at auction is not a sure guide. There was a piece of property in our town which was a part of an estate, and it sold for \$80 an acre. It was worth about \$35. It was the old homestead of several people, and they got to bidding against each other and bid the price up to about two and one-half times its real worth. That would be a fair criterion neither for that place nor for neighboring farms.

I have a farm that is worth \$3,000 or \$4,000, and I make up my mind to go west in thirty days. I sell the

farm and take my money with me. That represents the real value; a chance to get at the real value.

A man came to me a year ago and told me his farm was assessed at the same value as Mr. Stephens' farm. I told him that seemed fair, but that I would go over it again. I did so. I found that the first man that made the complaint lived on his farm and took what he could get off it. You cannot assess a man's hard work.

MR. JOSEPH P. BRODERICK, equalization commissioner, Erie county: I would like to ask Mr. Elwell a question: I believe that in Allegany county they have a great many oil wells, and I would like to ask him how they go about assessing them. I think his answer would be interesting to this body.

MR. ELWELL: We have a daily production of oil in Allegany county of 2,037 barrels. Since 1920, we have assessed this production at \$3,500 per barrel. The assessment carries with it the equipment of the lease, tanks, pipe lines, and pumping power; in fact all the expense to drill and operate the lease. This method is the only way we have adopted up to the present time to give us an equitable assessment. One well may produce a quarter of a barrel, another may produce two or three barrels per day. In order to obtain equality, we arrived at the daily production basis.

MR. BRODERICK: Well, Mr. Ellwell, how do you arrive at the \$3,500 a barrel?

MR. ELWELL: Through the pipe line runs.

MR. BRODERICK: Do they give you the amount that is produced?

MR. ELWELL: We can get the runs, they are all filed with the county clerk every month. The assessors can request the individual lease owners to produce them for assessment purposes. The pipe line runs will show what



each individual lease produces. There is in most cases a working interest and royalty interest. Very little of the property is held in fee. The royalty interest takes the same assessment.

MR. BRODERICK: Now, when you started to decide that you were going to increase your property to 100 per cent, what decided difference did it make? By that, I mean you must have had some idea previously that you were not assessing 100 per cent. What started you on the right and correct road that you claim you are on at the present time? On what basis? What did you take as the full value?

MR. ELWELL: The \$3,500 basis for assessment was arrived at by the oil men in Wellsville themselves. I called them together with their experts, and we figured out what they should pay per barrel of production, on the average price oil sold for the previous year to be equal to real estate at 100 per cent. The cost of drilling the lease and operating expenses were all taken into consideration, and proper depreciation was allowed.

We have had some trouble in towns that have not reached the 100 per cent mark in taking the \$3,500 as a 100 per cent basis. They have failed to equalize the \$3,500 per barrel back to the percentage that their town is given by the equalization committees. We are overcoming that gradually. We simply worked the question out by coming together and trying to find out what they should pay to be on a par value with real estate at 100 per cent.

MR. GRAVES: Mr. Chairman, I think Mr. Elwell misunderstood Mr. Broderick's question as to how the \$3,500 per barrel was arrived at.

MR. ELWELL: We take the bonafide sales of our various properties as a 100 per cent basis. We then zone our town up into a number of zones, taking the sales in each zone

to determine the percentage we are assessing the property in that zone. We find in two years' time that the property in this particular zone has increased very rapidly. For instance, take a zone over on the east side where a number of people have constructed new homes, you will be surprised to find how this will increase the value in that zone. We have had cases where the value would increase 20 per cent in two years. We find the only true way is to take our sales every year, and keep them checked up with our previous assessment roll, to determine the percentage we are assessing on in each zone. Your question was, what brought this into our minds? *I must say, I don't know*, other than that I found that fully one-half of the property value in our town was off the roll and never had been assessed. For instance, we had an oil refining company assessed at \$25,000 that had been operating for fourteen years. When we got the true value figured out, it was \$370,000, and they are assessed \$370,000 today. Another industry manufacturing turbine engines was on the roll for \$15,000. Now they are assessed for \$215,000. A foundry that was assessed for \$7,500 now pays on \$100,000 value. The Erie Railroad company with six miles of track assessed at \$18,000, now pays on an assessment of \$154,700. The New York Transit Company with a large pump station and thirty-four miles of 6 inch line running through the town assessed at \$18,000, now is assessed at \$133,250, and so on.

Question: How many lines?

MR. ELWELL: Four six inch lines.

Question: How many miles of railroad?

MR. ELWELL: Six miles

Question: How many tracks?



MR. ELWELL: One single track, six miles, assessed in 1923 on our roll at \$154,700. Gentlemen, we had only six people who came before us last grievance day. Four of them had no grievances, the other two were fellows that don't want to pay. We have no trouble with our people, and you assessors won't have any more trouble than we do if you will only apply equality and justice to your assessments. By so doing, you would save all concerned, including the Tax Commission, days of trouble and worry.

MR. FRANK HOOPER, town of Pitcairn, Saint Lawrence county: A lady owned a piece of land that joined a school district and ran through like that, and an electric line ran through like that. According to section 430, we assessed the land together. It had been assessed, this particular piece, in district seven as non-resident and in district one, where she lived, we assessed it together. District seven put up a holler about the power line. We got a ruling from the Education Department that we were right in assessing it together, because it joined. That line was a question with me, and we did not get any information on that.

MR. ELWELL: All in one town?

MR. HOOPER: Yes, sir; but the school commissioner said we did not change the district line, and therefore we should have left the electric line and assessed it just according to the district.

MR. ELWELL: Why don't you make one assessment and then apportion the value of your land to each district?

MR. HOOPER: That is what we did; but here is this question about the land drawn from one district, seven, into district number one.

CHAIRMAN GILCHRIST: If you will reduce that question to writing, I believe we could secure more and better infor-

nation. It seems to me more a matter for the question box than for floor discussion. It can then be answered to-morrow morning. I will depart for a moment from the adopted procedure, and ask Judge Knapp to address a few remarks to the conference. He needs no introduction.

JUDGE WALTER H. KNAPP, of Canandaigua: *Friends and fellow laborers.*—I am not an official at the present time, and therefore I think I can talk with you as one of you, and along the line of cooperation. There are one or two things in connection with this local assessment problem which appeal to me at the present time. Possibly they were indicated by the remarks of the gentleman from the north country, where a farm sells for \$80 an acre which is worth \$35, due to a controversy in the family. You have heard it said so many times that the fair market value is the price agreed upon between a willing buyer and a willing seller. Now, that definition does not go far enough, and it is illustrated by what that gentleman said. The fair market value is the price agreed upon between a seller, willing, but not compelled to sell and a buyer, willing, but not compelled to buy. Time and time again, a merchant, for instance, wishes to get another piece of ground to keep his buildings all together. He will pay a higher price than the average market value of that property. Time and again a man wants to move, or his debts are such that he must sell. He is urgent about it, and he seeks his buyer and he sells at a less price, at a loss; that is not an indication of the value. So, it is the case of a seller willing but not compelled to sell and a buyer willing but not compelled to buy, where the price agreed on is a fair indication of the market value.

Now, as to the use which should be made of sales. It has been brought to my attention that some assessors will keep track of the sales, and then search out the people that have made them, and increase or decrease the assessment according to the consideration of that particular sale, leaving all



other property exactly where it was. The result is that in 90 per cent of the country where there are no sales of farms, the assessments would be left where they are; and the fellow who happened to sell, perhaps to somebody who had a family that could do all the work on a farm,—that particular individual would get an unjust deal because of the transaction.

That is not the way to assess property. These sales should be used merely as a guide, as a barometer of conditions. They should be tested and tried out along those lines.

I think that many of the people, particularly those who are living in the cities and do not generally come in contact with the people in the country, do not understand present conditions in the country; and what is known as the equalization rate fixed by the State Tax Commission and fixed sometimes to the disadvantage of a particular county or town,—sometimes that rate, as I say, is unjust because of the fact that for the last two years there have been but few sales of farms. There is almost no market for property of that character at the present time, and a rate fixed on the sales that occurred during that boom period when wheat was two-fifty a bushel and other things accordingly does not fairly reflect present conditions. That is one of the things that affects rural districts. Unless you can get sales right up to the minute, the sales of three or four or five years ago are no indication of the ratio of the assessment to the full value of the property in those localities.

Most of the farm property has depreciated from a market value point of view within the last two years from 40 to 50 per cent. On the other hand, in the cities and in the prosperous villages, due to the high cost of material and labor, due to the fact that our immigration laws are so framed that 90 per cent of the immigrants stop in the great cities and that in the last twenty years every rural locality has lost population and every city and village has increased, due to the housing shortage and other things,—there is a good

demand for that class of property and sales have indicated a different situation, you know, because values have gone up.

There is another thing that ought to control equalization: The relative value of village property of a town as compared with the rural property of a town. Now, we have been accustomed to take the sales of the entire town, including village and country, and put them all together and say that the total consideration is so much, total assessed value so much and by dividing the latter by the former get an average rate for the town. That is not correct. You should take into consideration the relative amount of property on the assessment roll in the town and the amount of property on the assessment roll in the village. You can take a little problem, work it out and you will find it will make a difference of several points in the equalization rate.

I am certainly very appreciative of this opportunity to say a word on local assessment, but I want to urge on the State Tax Commission and upon others who have to do with equalization that they study these problems of the change in the economical condition that affects the country at the present time. If any one can find a purchaser for farms, I would like to have him send him into the country. If there is any way to change the basis of our incoming foreigners from the census of 1910, when there was an influx of foreigners from southern Europe who were not rural workers, we should find it. What the country is sorely in need of is immigrants who can go on the farms and work them. I wish this might be done, as I can see it is the great economic necessity which the country is facing. I am just in receipt of a letter from my son, out in St. Louis, and he writes, "I tell you, Dad, conditions out here are simply horrible. In one county every single bank has closed its doors; farmers could not pay their notes and merchants cannot buy. We don't get a nickel more than when we



paid \$30 or \$35 a month, and you cannot get men when they pay them \$10 a day in the town."

It is that condition which I urge upon the people who have to do with equalization rates in those communities. They should take these facts into consideration at the present time; while our cities and villages are prospering, the country districts are not.

I do not believe in tax exempt property in the state. You are borrowing from Peter to pay Paul, and you are building up trouble for yourselves in the future, and they make no difference in the rents of poor people.

I want to say that I enjoy this meeting with old friends like the assessors. Although I have been a year out of the service, my heart is still in it, and it gives me a great deal of pleasure to meet with you men I have known all over the state of New York—men of big hearts, good minds and honorable character, who are determined to do better things. You will get a lot out of it, men! This coming together and rubbing up against each other shows that you are not afraid. I distrust the assessor who tells me he will do it if another fellow will. Do your duty! Obey the law!

CHAIRMAN GILCHRIST: We have only five minutes in which to conclude this particular discussion in accordance with the time allotted by the program.

MR. PETER CANFIELD, Town of Lumberland, Sullivan county: Our town, I guess, is rather low, and they have had a lot of trouble; but what was mostly on my mind was to tell the assessors that our town don't limit us to the time of the expense of the assessor.

I agree with the judge (Knapp) that the actual value of property is what it will bring at a ready sale. I ran across a little account the other day, which says: "The population of the state in 1923," that is the farm population, "was 741,000." It says that during the past year

40,000 mechanics and laborers went from the farms to the city, to take up other occupations. That left a loss of 40,000; and the increase on the farms was only 14,200. My information is that less than seven farms out of a hundred had one hired man!

The actual value of property has changed, as the judge says, where there is a ready sale for it. They are building up in the cities, which has increased the value there. Every house that goes up increases it. Down in our little town we have any amount of property that is just as useless as a dry well would be to a boarding house.

I happen to be the unlucky owner of a few acres of land. At one time, when I was in my prime, there were 160 acres of good soil,—rough but good grazing land. We cut about two tons of hay to the acre. Since I have grown old and lame and crippled, I have about thirty acres of that left, and it is in all shapes. Some places a nice patch of nettles, another place white birch growing on the hillsides,—you know the kind of land I mean.

In our country we have a great many lakes, where capitalists have built large villas, put watchmen on them, and kept the people off. I know of no title ever having been given to a lake of any size, and I don't think very many lawyers have found it. I have made the suggestion to state officers that they assess these lakes for what they are worth.

CHAIRMAN GILCHRIST: We have now reached the point in our schedule when we shall have the pleasure of listening to Mr. George L. Flanders, counsel for the State Department of Farms and Markets, whose subject will be farm statistics. Mr. Flanders.



## FARM STATISTICS

GEORGE L. FLANDERS

*Counsel, State Department of Farms and Markets*

*Mr. Chairman and gentlemen.*—There is some little misapprehension either on the part of our chairman or of myself, as to my subject. I came here with the understanding that I was to tell you something about a bill proposed to be introduced in the legislature. For the reason that it puts more work on the assessors, it was thought best to let you know about it here where we are all assembled, and to tell you the reason for proposing the measure.

Now, the farms and markets law places certain responsibilities and duties on the commissioner of farms and markets. Among the duties he has to perform as such official is the following, section five, which I shall read, it being the one in question:

“The department through the commissioner shall have power to collect and disseminate accurate data and statistics as to the food produced, stored or held within the state, the quantities available from time to time and the location thereof. From without the state like statistics as are of value or can be obtained.”

Now, your attention is called to the fact that this bill is to be placed before the legislature for consideration for a good reason,—namely that statistics have great effect upon those who produce, because it gives them information upon which they can act in determining what they will or will not plant. The legislature did not provide the means for the commissioner to employ the necessary number of men

to go out and collect the data that is necessary to get this information that he shall print and distribute. A conference was held, as I am told, with the State Tax Commission, as to the best method of getting that information. It was finally concluded that by virtue of experience that this body of men, the assessors, who, as I understand number about 4,300 in the state and 2,800 in the towns, are best equipped by virtue of experience and knowledge gained thereby, to collect these statistics. The result is that a bill has been prepared and will be introduced into the legislature; and it was thought best that you men who might be affected by it should know what its terms are.

For that reason I am here, Mr. Chairman, and for that only. This bill provides by adding to the sub-division which I read the following provision:

“To aid the department in collecting such data, the assessors of the towns in this state are hereby authorized and directed to collect statistics regarding the farms, crops, livestock or other agricultural resources of their respective towns as may be required by the commissioner of farms and markets. On or before July first of each year the assessors of each town shall prepare and transmit to the clerk of the board of supervisors a report of such statistics. Such clerk shall thereafter, and on or before August first of such year, transmit to the commissioner of farms and markets such report, together with a summary thereof. The commissioner of farms and markets shall prepare and furnish such officials proper blanks and instructions for the carrying out of the provisions of this subdivision.”

Now, having told you what the provisions of the bill are, why we reached the conclusion, simply because it was considered you were the best equipped body of men in the state to gather the information and get it more economically and probably more accurately than by any other way, that the information is to come through the clerk of the board



of supervisors, making the county the unit, thus insuring promptness and accuracy, which ought to be had. Of course if we print and circulate statistics which are not accurate, they are misleading, and consequently a delusion to those who depend upon them. For that reason your body was selected for the work.

Now, I am not going to attempt to discuss with you what we do with those statistics,—simply print and distribute them, as the law requires; but I have with me today Mr. Shepherd, who is the statistician of the department and also for the national government in this state. Mr. Shepherd will, if you desire, tell you what use is made of those statistics.

MR. BRODERICK: May I ask Mr. Flanders a question?

CHAIRMAN GILCHRIST: Yes.

MR. BRODERICK: I understand that the assessors are to gather these statistics. I do not know whether or not Mr. Flanders has had any great amount of experience with boards of assessors, but I am just wondering what the town boards of the different towns of the state would say regarding the expense in connection with the gathering of these statistics. Is there any provision for that? I notice the bill says "they shall." It makes it mandatory; but there is no provision which says that the town board "shall" pay the assessors for this work. Assessors in many instances receive so little salary that it is a wonder they get any work done. One town in the county of Erie, I am sorry to say, pays its assessors less than \$90 apiece. Out of the \$90 they have to hire a rig. In one case the horse ran away, broke the buggy, injured the horse, to the extent, the livery man said, of \$37. They had to take that from their \$90.

Now, I am making no criticism and finding no fault with the gathering of these statistics. I presume you gentlemen in the department of farms and markets have ideas as to

the benefits that will accrue to the people of the state generally; but, Mr. Flanders, I want to say that the assessors have got to be looked after in the state of New York relative to the compensation they should get for doing this work.

MR. FLANDERS: Mr. Chairman, that question was considered when the bill was drawn. We examined section 85 of the town law, and found that the board of supervisors have power to fix the salaries of the assessors at not less than three nor more than five dollars a day. It was thought best to leave it as a county proposition, for each board of supervisors to decide. But in the event that leaving it that way does not turn out satisfactorily when the matter comes before the legislature, this question may be disposed of as seems best.

CHAIRMAN GILCHRIST: Are there any further questions?

MR. WILLIAM P. THOMPSON, town of Portage, Livingston county: I heartily endorse what our friend has said in regard to increasing assessments to nearly the full value. Years ago we found that the towns were assessed about sixty per cent. Three years ago we raised it ten per cent, and last year another ten, and a great howl went up, which we have not ceased to hear yet. Our tax rate of 23.53 a thousand at the present time, as equalized.

There is a school district in the town of Portage—in a village of just a few hundred inhabitants. Our town has increased the rate of taxation until we think we have reached about 80 per cent. The town adjoining in the same district is way below us. A lady called on me just the evening before I came here, and asked me to bring it before the State Tax Commission. She has a residence that is assessed for \$1,400. Just below them, there is a large house, recently built, that is assessed only \$1,400; but it is in the adjoining town, which doesn't find any fault with the assess-



ment of the town of Portage for the state and county tax. It is working unequal taxation in the school districts. Is there any way of that being adjusted?

CHAIRMAN GILCHRIST: Commissioner Graves will answer that question.

COMMISSIONER GRAVES: I can answer that better to-morrow morning; but there is a provision in the education law now, as I recall it, whereby you may appeal to the State Commissioner of Education, and he employs some process of equalization. I wish you would leave with the secretary of the conference, Mr. Niven, that question. I think it is one of more or less general interest, and we will look the matter up more thoroughly and answer it to-morrow morning.

MR. MELVILLE, Buffalo: On the matter of the measure of true value, Judge Woodbury, formerly chairman of the state board of tax commissioners and afterward attorney-general of the state, said that every piece of property has its own peculiar value. The state law provides that property shall be assessed at its full value, and that full value, as we measure it today, is by cost of reproduction less obsolescence and depreciation. I think that pertains to the city and the rural districts equally. Some of the men are asking what that measure of true value shall be. In Buffalo we have had a number of instances in the last year in which the sale of property and the known value did not indicate the true value of the property. There were other features involved which caused it. People rent a location and proceed to build up a business. Someone outbids them and they are forced to buy in defense of their good will. Then the land and buildings on either side can be bought for less value. What they paid in excess was paid for their good will, a business adjunct that they had built up themselves.

In the matter of different classes of residence property

we find that obsolescence is a factor. If they take the law as it is given, and base their assessment on what is indicated, then if in their judgment they will conform to Judge Woodbury's definition that every particular piece of property has its own peculiar value, it will be valued justly.

MR. FRANK H. MILLS, Mount Morris, Livingston county: What I came down here for was to get some help in regard to assessing rural and village property. I want to ask the commissioners if we shall assess the village property away up on account of the cost of material and building, assess it for what it would cost now, and assess the farms away down on account of depreciation in value. At the present prices the milk market seems to have gone "bust." The question is, shall we go home and assess our rural property up full value, to what it was in war times, and the village property in the same proportion, or shall we take off from the rural property and add on the village property?

CHAIRMAN GILCHRIST: I wish to state that the conference has arranged to conduct a question box. All questions may be put in the box on the secretary's table today and they will be answered at a general discussion here to-morrow morning.

MR. MILLS: I am a little mixed on the valuation of that oil by the barrel.

MR. ELWELL: I am not going to allow any of you assessors to get me into the position I was in the other day with a party of friends over in our adjoining county. We were discussing 100 per cent valuation. One fellow in the party got a little fussed up and said "To hell with Allegany county. Why you haven't done anything over there in the last ten years but breed and raise tax commissioners." (Applause.) When I recovered from the shock and surveyed the situation, that fellow's shot came pretty close to the bull's



eye. What he was after, was to get me a little fussed up at the same time.

I am perfectly willing now and will be at any time to answer any question any assessor may ask that I may be able to answer.

Now, my answer to the valuation of oil by the barrel. If you have fifty acres of land that is oil producing land, you lease it on one-eighth royalty and they drill fourteen wells on the lease, and those fourteen wells produce one barrel of oil a day, you are assessed \$3,500. If they produce two barrels a day, you are assessed \$7,000, and so on. And your royalty of one-eighth is assessed on the same basis. If the fourteen wells don't produce one barrel a day, then the wells are assessed as junk at \$250 per well. This assessment carries all the expense of drilling the wells, and all the operating expense as well.

CHAIRMAN GILCHRIST: I have been asked to announce that a business meeting of the New York State Tax Association will be held in this room immediately after our adjournment this morning.

I want to again urge upon you gentlemen the advisability of the use of the question box. I know we shall get real help as a result of the questions propounded and the answers given.

I desire to call your attention to the program for this afternoon. I think that every one here this morning should be present, because it will be productive of much good for all of us.

The meeting will now stand adjourned until two o'clock this afternoon.

Adjourned at 12:03 P. M.





## SECOND SESSION

WEDNESDAY AFTERNOON, FEBRUARY 20, 1924, 2 P. M.

### Determination of Values of

Public service corporation properties

Timothy Murray, Commissioner of Assessments and  
Taxation, Yonkers

General discussion

Industrial properties

George F. Phillips, assessor, Watertown

General discussion

Business properties

A. B. Macardell, Mayor of Middletown

General discussion

Residential properties

William J. Burke, assessor, Buffalo

General discussion

Farm properties

E. B. Noble, assessor, Oneida

General discussion

Announcement of nominations

General discussion

PRESIDENT GILCHRIST: The conference will come to order.  
If Mr. Phillips and Mr. Burke are in the hall—will they  
kindly come up to the platform?

About two years ago, the city of Yonkers changed from a board of assessors to a single-headed commission, a department of assessments and taxation. Mr. Timothy Murray organized the new department, and has been its head ever since. I now take pleasure in introducing to you, Mr. Timothy Murray, of Yonkers.



## PUBLIC SERVICE CORPORATION PROPERTIES

TIMOTHY MURRAY

*Commissioner of Assessment and Taxation, Yonkers*

*Mr. Chairman and brother assessors.*—The introduction of our president, which explains to you that I have only been two years a commissioner, will probably also explain the fact that this paper will leave lots of things to be stated, because I can't attempt to cover the ground, so I am just touching on more or less—that is, on really the important things that will interest you today. The subject which has been assigned to me, gentlemen, is, as you know, the determination of values of property of public service corporations. I accepted in the pride of the moment and in appreciation of the compliment which has been paid to the Yonkers tax department by the Tax Commission but the trepidation with which I approach it now is only equalled by the cheerfulness with which I accepted.

In looking into the subject and analyzing it, I felt that the commission could not have intended me to discuss it from any standpoint other than that of the local assessor, whose immediate concern is with the local general property tax on real estate. I did not feel that I would be expected to speak upon the general property tax, or the additional tax which covers earnings, or even the special franchise tax, but when I saw the program as published, and when I realized that I was the only speaker on the subject, I felt it necessary to attempt to cover the entire ground. This talk will carry you, gentlemen, over familiar ground, but the only way to learn, to plan out proper roads and path-

ways, is by retraversing familiar ground, and that is the object of these conferences, to bring us together, to go over this ground annually, so that in the course of time we may adopt adequate means of arriving at improved taxation.

The public service corporations or public utilities, are those whose business enterprises are intimately related to the public convenience. I need not classify them. Those corporations are all familiar to us. They are rendering special service, and are in receipt of special privileges in that they are permitted to use or occupy streets and public highways whether along, over or under the same, in a manner not permitted to the general public. It follows as a consequence that, enjoying particular privileges, they have incurred reciprocal obligations, and it becomes the duty of the official representatives of the people to see to it that those obligations are duly paid for in the form of service or in the form of taxation. The former, as you know, lies in the jurisdiction of the public service commission, the latter, that, as to taxation, in the hands of our state tax department. Primarily, however, the respective tax districts in which their tangible holdings lie must give them cognizance for the purpose of the local general property tax. Their tangible property must be assessed in each tax district and taxed in the same manner as other property in each district.

Take for example, the leading public service corporation in my own city of Yonkers, the New York Central Railroad Company, which owns its main line consisting of a strip one hundred feet and upwards in width running along the east shore of the Hudson River, which constitutes our westerly city line, and extending from the New York City line to Hastings, a distance of 4.7 miles. For purposes of local taxation we keep very clearly in mind the fact that this land must be assessed not as the property of a very important corporate entity, not as a constituent part of an extensive system, not as an element assisting the production of divi-



dends, but by methods exactly similar to those which would be employed were the title in any business corporation or individual. If the property is water front, water front values are properly used; if it is upland with similar land on either side, it should be assessed no higher than similar land adjoining.

And when in the process of valuation we come to the placing of the improvement value, I may say that fortunate indeed is the district which has at its disposal the services of an engineer. There is so much involved which demands technical knowledge, that it is hopeless for the ordinary real estate assessor, no matter how wide his practical experience, to cope with its requirements.

The city of Yonkers, since January 1st, 1922, when, as our president has told you, the new department took over the work of the old board of assessors, has had an engineering bureau at the head of which is a deputy assessor and engineer, in charge of industrials and public utilities, and to him was assigned the work of determining reproduction cost and depreciation preliminary to his recommendations upon valuation. This work involved a very thorough survey, and resulted in a report which placed before the commissioner full details of construction covering every element thereof, from grading, sea walls, masonry, to tracks and current transmission, pipes and culverts, third rail and jumpers, to signal bridges and tell-tales, towers and battery houses and to passenger stations and platforms. Cubic yards were given where applicable, and tonnage, and linear measurement, and units for all, so that the department is in possession of facts, and nothing has been left to surmise. All of which brings to mind that universally recognized axiom that taxation must be based upon certainty and that every care must be exercised to acquire certainty.

The department which earns the reputation of accuracy will as a by-product save money for its municipality or

township in the avoidance of litigation. But what about the tax district which has no means of ascertaining accuracy in valuing such a proposition as this? Should not state aid be granted to it? I believe that it should, and I join with Senator Davenport and other men, with far more experience than I possess, in recommending that the plan of aiding tax districts in assessing property of public service corporations be extended by granting to the state tax department sufficient engineering personnel to enable it to furnish to any applying district engineering counsel for this purpose, with the proviso that the applying district bear the expense thereof. It would not be fair, of course, for that expense to be borne by any other district than the one applying for the aid. This would also work towards uniformity of taxation, another crying need, as I am sure a comparison of assessed valuations upon its improvements in the various tax districts through which the Central runs would very forcefully demonstrate.

The railroad should also cooperate by furnishing, not only to the tax department, but also to each local district accurate and full reports, periodical reports showing all changes and improvements, even though they be replacements, a suggestion which applies to every corporation in this public service category. Of course, in our assessment for local taxation of the value of the real estate of a railroad, the Clapp case, 152 N. Y. 490, is, and has been for twenty-five or twenty-six years, controlling, in which the assessors of a town in Livingston county, erred in treating their subject as part of the railroad system, and gave consideration to "cost, rentals and earnings." Judge O'Brien's decision, among other things, said "An assessment of the portion of the real estate of a railroad which is within the town and subject to the jurisdiction of the assessors, upon the basis of the income or profits of the whole system of which it is a part, must necessarily include the use of franchises and



personal property which are otherwise assessed, and hence such a principle of valuation must in some measure at least, impose double taxation." The real estate, the personal property and the business and franchises are taxable under different statutes and those three elements—"should not be commingled." "When there is no question before the assessors save the value of that part of the real estate of a railroad which is within the town, the cost of replacing it will ordinarily furnish a just measure of valuation."

And to summarize, the court held "when they come to make their decision as to value for the purpose of taxation \* \* \* it can never exceed the actual cost of producing the property in the condition in which it is found by the assessors at the time of making the assessment," which, of course, covers depreciation.

The most recent case which I have read was in the Appellate Division, Second Department, reported in New York Law Journal, February 13th, that of the New York Dock Company, and following along the above lines and eliminating the pre-war value claim, the court held "The value of the improvements must be fixed for assessment purposes according to the values at the time such assessments are made, and not at pre-war values."

When I was new in office, it occurred to me that by writing to the Interstate Commerce Commission, which at that time was, and, no doubt still is, engaged in the valuation of railroad properties, I might obtain a report which would aid us in our local valuation. I wrote a letter asking for data covering our district, expecting that whatever I got I could segregate and make it apply to our district, but the answer came in that neither the Bureau of Statistics nor the Bureau of Valuation could help us in any way, the evasive answer being that the information which was supplied covers the entire road of such carrier, but none was supplied to us. I cannot believe that the railroad, after

the expensive survey which it had made for its report to the commission, did not in that report give details which would be very valuable to tax departments all along the line. I propose to take the matter up again, and hope to find that now the Interstate Commerce Commission has information which it may divulge to the assessors, for the benefit of the people of the state.

My interest in the particular work which the local assessors have to perform has caused me to allot a disproportionate amount of time to that work so that but a short while remains in which to traverse the more tangled field of taxation under the direct jurisdiction of the State Tax Commission.

That field has been surveyed by experts for a generation and there is in existence a variety of laws covering taxes, other than the general property or ad valorem tax, to be paid by public service corporations, which laws I will briefly summarize.

First, of course, of interest to us is the special franchise tax, specifically described in section 45 of the tax law, and which requires the commission to assess special franchises upon the same basis as the other real estate in each district is assessed. This valuation, as we know, is reported to us with the rate of equalization, to both of which we may object if we have data to sustain the objection. Here I claim the local tax departments do not cooperate properly with the State Tax Commission. The corporations make reports of installations and extensions to the state tax department, but how many of our local boards take the trouble to write up to the state department—how many keep it advised of ordinances or common council resolutions granting privileges for extending gas mains, for instance, in the public streets? How many of us, even when we receive reports from the State Tax Department, take the trouble to check them up and verify them. Some of us, and I know down



in our district, we have, until very recently, to a great extent, neglected that part. I fear that we are sadly lacking in this cooperation, which the commission would heartily welcome, and which would frequently result in increased franchise tax valuations.

And in regard to the rate of equalization, need I comment here upon the benefit resulting to the tax district which is trying to live up to section 6 of the tax law, requiring full assessments, requiring you—all of us—to assess land and real estate at its full value. If we assess our real estate at full value, our values on the special franchises will go up.

Other taxes remain, gentlemen, but they are beyond our realm of activity. Tangible property has been assessed; the privilege to use our public property has been assessed; and all of these corporations, of course, had primarily to pay their corporate franchise or organization tax.

In addition, for the privilege of exercising their corporate franchise, each must pay a general franchise tax to be computed upon the basis of the amount of its capital stock employed during the preceding year within the state. Reading section 132 of the tax law, we see how it is measured and how the rate varies, dependent upon dividend rate, relation of assets to liabilities and average price of stock sold.

Now that the privilege of exercising the right to operate has been annually paid for, comes the necessity to give tribute for the results of operating, and that requirement is covered by section 184 of the tax law, entitled "Additional Franchise Tax on Transportation and Transmission Corporations and Associations," also called the "earnings" tax. That consists of the payment of one-half of one per cent on gross intra-state earnings, not including earnings derived from business of an inter-state character, and, as you see by the title, it covers the steam railroads, the tele-

phone and telegraph companies, and the other public utility companies in the category stated.

The elevated and surface railroads are assessed under section 185, and pay one per cent on gross earnings and three per cent upon the amount of dividends declared in excess of four per cent upon the amount of their capital stock.

Then comes section 186, covering the water, gas, electric or steam heating, lighting or power companies, which, under that section, are required to part with one-half of one per cent of their gross earnings and three per cent upon the sum of dividends declared in excess of four per cent upon the amount of their capital stock. We can very safely say that our legislators have overlooked nothing. There is one thing that they cannot be accused of, and that is laches in unearthing sources of public revenue. I am not wise enough in my generation to offer any suggestions. The whole question is of the utmost difficulty and complication. The tax law was not created at one time under one act. It was built up piece-meal to meet changing conditions and varying developments. It is criticized for lack of certainty, but I notice that no remedies have been offered which commend themselves to those who would welcome a method of securing certainty and the man in the street, the assessor who appreciates the difficulty of valuing tangible parcels of land and structural improvements will be the first to sympathize with and understand the difficulties under which labor those various groups of men upon whom rest the problems of devising equitable tax laws and of enforcing them equitably.

CHAIRMAN GILCHRIST: General discussion is in order and if anybody desires to ask any questions, Mr. Murray will be glad to answer.



A Delegate: Unfortunately, I happen to be the assessor in Carthage, a village of about six thousand inhabitants. I have occupied that position for possibly thirteen years, regardless of political favor. Now in this matter of a hundred per cent valuation—I would like information. As I understand taxation, it is a matter of so equalizing all values that no injustice is done to any individual or corporation. Just as an argument—let us assume that all property was assessed on the fifty per cent basis, what injustice would accrue? We have one large city, and that is Watertown, and, as the Tax Commission is aware, they are protesting against the valuations in local towns, claiming that they are discriminated against. Our supervisor is naturally trying to get the best equalization he can before the equalization board in matters of appeals. They say, “why don’t you assess property for what it sells for; that is a true value of the property.” In my experience in the past four or five years, and perhaps prior thereto, it seems that there have been gross irregularities in the matter of values. There have been sales in my district that everybody recognized as being at excessive values. If we were to follow the request of our supervisor, we would have a tax roll that would represent a mountain range. I am going to ask if the same given amount of property in a certain locality fixes the value upon like property adjoining?

MR. MURRAY: Same basis, yes, sir.

A Delegate: Mr. Chairman, I am sorry to say that and I am not sure whether or not I understand just how the assessors assess corporation property such as a railroad. For example, how do they go about it? I believe that that question will be of general interest to the assessors in small communities. Cities like Yonkers, Buffalo, Syracuse and the other large places in the state have their own engineering force; but small communities, in many instances, have to hire engineers in order to do this work.

MR. MURRAY: Yes. Early in my talk I drew attention to the good fortune which Yonkers has in the possession of an assessor who is an engineer, and I explained how he went over the ground, checked everything up, measured it along the line. For instance, I took the New York Central as the illustration, and told how we measured masonry, grading, sea walls, pipes and culverts, the tracks and passenger platforms, and I showed how they reduced everything to units and I suggested as Senator Davenport recommended some years ago that the tax department be provided with a greater engineering force so that it could send them out to help districts in this way. That is the only practical way to cover it.

MR. JOHN G. WIRTH, Sr., town of Yates, Orleans county: We live on the Rome, Watertown and Ogdensburg division of the New York Central. When I was elected assessor, I found that we had a lawsuit and this has run for nine years in the hands of a referee. All these years I have been assessor this case has remained unsettled. Before I came on the board of assessors, the Tax Commission notified the board that they were entitled to a raise of 20 per cent on the valuation of the railroad, and the assessors raised the valuation 20 per cent. When I came on the board we talked of lowering it, and I said "if we lower the assessment now it will be an argument in favor of the railroad, and they will say these assessors think the assessment is too high," and until I found out that it was a war measure, we let it stand, and then we lowered the rate 20 per cent. One of the former assessors said to me "You think you know more than all the rest of the assessors that have been before you." I said "No, what is the matter?" Well, he said "You have lowered the railroad assessment." I told him it was a war measure, that 20 per cent. Now my argument is this, we lowered that assessment because the state tax department sent to the board of assessors a statement



that the valuation of this line of railroad was excessive, and, why, if we followed the figures of the state tax department, ought they not be made parties of the suit, if we have to take their figures? We have about ten miles of railroad, counting the main line and the sidetracks. We have depots and water tanks and bridges, and we have a number of cuts. I noticed coming down along the line of the railroad that their Italian boss has a board up, and in large colored letters, has printed "Prize Section." We have the prize section and yet they think we are charging too much. They let that Italian boss have a board and give him a job at \$60, and they are trying to get it out of the town of Yates and then some. The present board of assessors would like to settle this railroad suit. How can we do it? How can we go to it? Have we any authority, any right, to enter into any proceeding with the railroad attorney, or with the board of the village or town and the assessors and the railroad? Have we any right to hire a lawyer? The case has been in the hands of a referee for years, and we don't hear anything of it.

MR. MURRAY: You have a county attorney?

MR. WIRTH: Yes. He wants to keep it up. He is getting rich out of it.

CHAIRMAN GILCHRIST: Judge Knapp will again address the conference.

JUDGE KNAPP: The first thing I know I will be talking as much as I used to when I belonged here. I presume the gentleman's inquiry relates to a certiorari on a special franchise assessment. Of course, the locality has to take care of that; but the attorney-general is also interested, representing the Tax Commission. The settlement of such cases has never been difficult when the locality is willing to agree to it. I don't know anything about this particular case, but I

should say that it reminds me of the fellow who met a friend of his on the street and asked him a question, and said: "Now if so and so and so and so is the case, what would you do?" "Well my friend," he replies, "I would go and hire a good lawyer." That is all there is to it. The attorney must be to blame. The referee cannot hold it up if the attorneys are pushing it.

Mr. Chairman, while I am on my feet, may I say a word in connection with the assessment of public service corporations? It is to be regretted that there is so much controversy between local assessors, or local authorities, and the public service corporations. There should be harmony between these corporations and the local authorities, and I believe it is possible to have such an arrangement and to pursue such a policy. I think that the special franchise assessment—if I may be permitted to say so—my own opinion—has outlived its usefulness. It was started by a great man—President—then Governor—Roosevelt—in 1899, and he had to call a special session of the legislature in order to get it enacted; but conditions have entirely changed since then. The Public Service Commission has come into existence, created in 1907. Rates are now controlled to a greater or less extent by that commission, and they were not controlled prior to that time. In my opinion there should be substituted for the special franchise a bureau in the state tax department,—or rather that bureau should be converted into a bureau of appraisers, who would appraise all public service corporations, certifying the valuations to the localities. These valuations the localities are not bound to adopt, because under the home rule provision of our constitution, article X section 2, the state could not make the assessment in the place of the local assessors; but the state commission could, as it does now, through the local assessment bureau, act in an advisory capacity, and the advice of the State Tax Commission, with its board of experts, could be followed and



the local assessors could adopt these valuations and equalize them on the same basis that they are assessing other property. It would seem to me such a plan would help to solve this problem. There are armies of attorneys for every corporation in the state, and the attorney general's office has to maintain a large force to look after special franchises. If I recollect, there are in the neighborhood of three thousand special franchise cases now pending against the State Tax Commission. That kind of an assessment and such a method of taxation are not up-to-date in this year of our Lord 1924. There ought to be some method of taxing the franchises and property of public service corporations that will avoid or prevent so much litigation all over the state in that respect. If you could repeal the special franchise tax law and make a very light increase, if necessary, in what is known as the gross earnings franchise tax, sections 184, 185 and 186 of the tax law, the whole problem would be solved and worked out better and more to the satisfaction of both the local assessors and of the corporations themselves. The corporations should be treated properly. Every dollar taken out in taxes should be reflected in rates.

In assessing the property of a going public service corporation, a proper method is to fix the value of the land according to the value of adjoining property, then add the cost of reproduction of the structures less depreciation. In estimating this cost use present units of material and labor, not pre-war costs. The Appellate Division of the Third Department has just held this to be a proper method, reversing the finding of the referee, who held that pre-war prices should be used. The court also held that you must assess the property as you find it, and not substitute other kinds of structures which might cost less, but answer the same purpose,—for example, concrete for masonry.

PRESIDENT GILCHRIST: Before I introduce the next speaker, I desire to make the announcement that all resolu-

tions should be reduced to writing, and given to the secretary, Mr. Nevin, or to Mr. Cole or Mr. Rockefeller. We are slightly behind our schedule, and we must for a time defer further discussion of this particular question. The next speaker is Mr. George F. Phillips, the deputy assessor for the city of Watertown. The subject assigned to him is determination of values of industrial properties. Mr. Phillips is an engineer by profession and is engaged in the contracting and building business. He has served for a number of years as the sole assessor of the city of Watertown. Mr. Phillips.



## INDUSTRIAL PROPERTIES

GEORGE F. PHILLIPS

*Assessor, Watertown*

Commonly referred to as the "city goat."

*Mr. President and gentlemen of the conference.*—The subject "determination of values of industrial properties" which has been assigned to me is one in which almost every owner of this class of property tries to convince the local assessor that his theory of valuations is right—and he seems to be able to get away with it in most cases. The courts have held that where there is no information or evidence of sales of a particular class of property, the best method to use in arriving at a fair value is by reproduction less depreciation. Therefore there can be no other course for you to follow in regard to industrial property than to consider the physical property involved.

Generally when one speaks of "reproduction less depreciation" he thinks that such method of valuation requires a large amount of detail work, such as finding out the number of thousands of bricks or the cubic yards of concrete in the building. This is not so for assessment purposes. You can apply general average rates per cubic foot of contents of the structures that will very closely meet actual detail results. To do this work to the best advantage you must have all the information and data at hand relating to the property, such as a map of the land showing its size or area, all the improvements thereon, under or above, the size of buildings, the class of construction, and their condition, besides a list of all the equipment in the buildings that is

classified by the tax law as real estate for the purpose of taxation.

The land value of this class of property should carry the same value as the surrounding land, unless some special features stand out prominently in connection with the industry, which must be determined at the time of inspection.

The buildings should be measured for their cubical contents. You should note the class and style of construction, and then you should arrive at a rate per cubic foot for the cost of construction and apply it to the total for buildings of the same class. Assessors who are not familiar with building costs should inquire of builders and contractors doing work in their district, and get an average rate for each of the different classes of buildings. The same is true in regard to depreciation. The assessor should consult with these same builders and get their ideas as to the amount of depreciation to allow.

You then should inspect the property and rate all equipment located therein, that is classified as real estate for the purpose of taxation. To arrive at values for this equipment, if you are not familiar with it, you should consult those who know. It is a great mistake to try and guess the value of something you know nothing about. When you have completed the values of the land, buildings, improvements and assessable equipment, your total will represent a sound or true value, and if you apply the same method to each one of the industrials in your district you will have absolute equality in your assessment values, and there will be no just cause for complaint.

I can see no reason why the values of industrial property should not be at the same ratio as other property in the same district. If for any reason the industrial needs help in the matter of taxes paid they should not expect the assessor to play them a favorite and grant an illegal exemption in assessment to them. The proper place for them to apply



for relief is the legislative bodies of the community in which they are located who have the authority to grant relief or subsidy. You well know the assessor should not recognize class, color, creed or politics, but should practice equality and justice to all, and if you do this you will render the greatest service possible to the taxpayer and community in which you live.

One of our industrial owners, who had had his valuation raised some, called me on the phone one night and said, "Phillips, you are driving me out of town by your assessment." I said I was sorry if he felt that way about it. He said he did and said further that "In to-morrow's paper he was going to advertise all his property for sale at the assessed values and going to Buffalo, as he could buy a modern plant there very cheap and would not be under such a heavy tax." I told him that if he had an opportunity to better himself he certainly would take it, and bade him goodbye. I asked him to stop in and see me whenever he came to town. The fact is he was shooting hot air, as he never advertised his property; he did not buy the plant at Buffalo, he did not leave Watertown and is still doing business at the old stand and I am glad to say he has never entered a complaint since.

A few thoughts assessors should have in their minds are—Be honest with yourself; follow the tax law as laid down by the state tax department; play no favorites; remember that equality is your first thought in all your work; remember you have nothing whatever to do with taxes as that is a function for the legislative bodies to handle; you have no right to give exemptions in any case where not provided by law.

If you keep these facts in mind you will find that when the tax is extended upon your assessment roll everyone will be paying his just share of the tax or service charge of the district in which you operate.

Another point I wish to drive home is that when you are talking about assessment values, do not talk about taxes at the same time, as they do not mean the same. Politicians and others like to use the word "taxes" instead of "values," when speaking of the work of the assessor. They know by doing that they can arouse a feeling in the taxpayer quicker. Remember you have nothing to do with taxes.

I believe that all the assessors here will agree that the tax law is absolutely right in requiring that all real estate shall be assessed at its true and full value. This being so, by what right and authority do you place upon your rolls resident property at nearly 100 per cent and industrial property anywhere from 10 to 50 per cent. Service to the district and taxpayers means equality and justice. I thank you.

CHAIRMAN GILCHRIST: Before any general discussion or questions are asked of Mr. Phillips relative to the subject he has talked on, I will ask Mr. Whitney of the National State Tax Association if he will take the chair for a while. Mr. Whitney.

MR. FRANCIS N. WHITNEY: *Gentlemen.*—You have heard Mr. Phillips' paper, and all undoubtedly—especially the assessors who are in industrial centers, will be interested in discussing it, and perhaps in giving the results of some of their own experiences.

MR. W. L. GINN, Canton, St. Lawrence county: I would like to ask Mr. Phillips if he doesn't take into consideration in assessing property—the location?

MR. PHILLIPS: Sure.

MR. GINN: Well, if you assess buildings in the same district, buildings of the same material, you must add somewhere something for location.

MR. PHILLIPS: That comes in in your land valuation.



MR. GINN: What would you do in a case where a man had a good plant, that was worth probably \$10,000, and sells it and the business for \$25,000, but really the plant wasn't worth but \$10,000, it could be resold again at thirty—how would you get around that?

MR. PHILLIPS: I would not pay any attention to the sale. You cannot assess the good will.

MR. WHITNEY: Any further discussion or questions?

MR. JAMES MONROE: Mr. Chairman, in regard to the industrial properties and public service properties that the assessor has to deal with, I believe that is one of the biggest bones of contention we have, because as we are all acquainted with the fact, there are virtually no sales or transfers in that same class of property; nothing to gauge valuations by. We hear the method proposed from the platform, and court decisions quoted on reproduction value less depreciation. Now if that principle were applied at this time it would cause a tremendous amount of costs to be centered upon some of these factories that have lately come up. And if true in regard to the factory, isn't it applicable to farm buildings as well? A farm has a building standing on it for fifty or one hundred years, in good shape. We put a value on it, practically at the insurance value today. The ordinary assessor cannot fool around with depreciation values on buildings that old. I wonder if any other assessor in the audience has made a comparison between the different classes of property in his particular district? In 1922 we made such a comparison. Our town ran about \$8,200,000, and we have figures which show that the factory and public service corporations ran slightly over two million dollars out of the eight million; but the farms ran about \$1,800,000 on farms of ten acres and up. The places under ten acres, outside the villages, ran about one-third of a million, and the balance was divided between two incorporated villages. We

have endeavored to arrive at a fair comparative valuation for the farmer, the man in the village who is working to maintain a roof over his head, and to the public service corporations? This morning the man from Wellsville, Mr. Elwell, spoke about cooperation. I say without fear or favor that we have accomplished what we have accomplished more through the cooperation with the public service officials in arriving at a true determination of value than is ordinarily admitted by the assessor. They have been willing to lay their cards on the table face down. Now we are not assessed a hundred per cent in our town, as the State Tax Commission knows, and the question that comes up, "can we get an equalization if we assess one hundred per cent,—either out of our county equalization board or out of the state equalization board,—and get fair treatment on all taxes and county taxes if we do it?" True, we will get it out of the income which is returned to the section, but can we get it out of the state and county? I leave you that question, Mr. Chairman.

I made a tax map of our town, and I wonder how many men can get a school apportionment properly made without a tax map. I spent three weeks solid work on that map, and I am not an engineer—just an assessor.

MR. WHITNEY: Any further discussion upon Mr. Phillips' paper on industrial properties.

MR. I. C. ADAMS, Manlius, Onondaga county: I don't believe we appreciate the assistance and help that the Public Service Commission and the Tax Department can give us along these lines. I have been an assessor in our town for six years, and we have done some radical work,—at least some thought so. But we have given satisfaction enough so that they have re-elected me for two years—I was unlucky enough for that.



We have thought for a number of years that our public service and special franchise public utilities were assessed too low, and two years ago we put in a bid to have an appraiser from the State Tax Department and he came last year and appraised, I think, about ten of these public utilities, and about ten local corporations,—manufacturing plants, etc. We used their figures and every one was entitled to a large raise, with the exception of one on which there was a little misunderstanding. It gave us a new assessment on these public utilities and corporations, of something over \$300,000. We put on the books, in round figures, four hundred thousand, by the figures the State Tax Department gave us. When it came grievance day, we had six lawyers there to fight for these people. They claimed our figures were too high. However, we held them to those figures. One man, a Mr. Van Deuzen, the legal head of the New York Central, left the meeting saying, “We are not through with you. We shall see you again.” The board told him that we thought it was useless. However, he came back, and saw another assessor, and wanted to know what we were going to do,—said they would not stand for those figures. We told him we were willing to have the courts decide. However, that is the last we have ever heard of him. They paid their taxes. They all paid, by the way, on the figures that the State Tax Department gave us on the special franchises. We have never had any trouble—always put those figures down, so I believe we don’t appreciate the service the State Tax Department can give.

MR. WHITNEY: Gentlemen, the time is running on. We have three very important papers left to be presented to the conference, and we will reserve discussion on the two papers that have been read until after the others have been read.

I have the pleasure of introducing to you, the Honorable A. B. Macardell, mayor of Middletown. Mr. Macardell will speak to you on the question of Determination of Values

of Business Properties. Mr. Macardell, fortunately, or unfortunately,—I leave that to you gentlemen, served as a city assessor before he was elected mayor. Now, perhaps he was elected mayor because he did a good job as assessor, or perhaps he was elected mayor so they could get him out of the job of assessor.



## BUSINESS PROPERTIES

A. B. MACARDELL

*Mayor, Middletown*

*Mr. Chairman and Gentlemen.*—Of all the courtesies extended to me since my election as mayor of my home city, there is none which I have more highly esteemed or which I have considered it more a privilege to accept than that conveyed by the invitation by the State Tax Commission to address this joint conference of mayors and assessors. For, before I became a mayor, I was also an assessor. If I had not been the one it is highly probable that I would never have been elected as the other, and if out of an insight gained into the practical everyday requirements in what is conceded to be the most difficult, unsatisfying labor in the field of man's endeavors, I am enabled to set forth something that may be of value to the assessors of today, I shall be most gratified.

Set aside in no small measure, for a number of years, in a laudable and praiseworthy effort to emphasize the importance of sales value as the criterion of assessment values there has never been a time like the present in the history of taxation in the state of New York, in my judgment, when that peculiar prerogative—the judgment of the assessor—could more justly be again returned to its rightful seat of authority and every incumbent of the office urged to assert it, not only as his constitutional prerogative but also as something that he owes to himself to exercise in what is to be considered in any sense the rightful conduct of his office.

The opinion of some to the contrary notwithstanding, a man can still be a man even though he be an assessor, but

he will be something less than the one and small pretense of the other if he permits himself to place upon the assessment roll anything else but what in his judgment is the real value of a piece of property.

This proposition holds true whether in communities where lack of backbone and foresight has been instituted the custom of partial value assessments or in the more progressive cities where properties are assessed measurably near their true value. Every assessor who is still assessing at partial value is actually depriving his community both of the benefit of a low tax rate and of its rightful share in the distribution of the state income tax. Middletown, for instance, in 1920-21, with full value assessments, enjoyed the lowest actual tax rate, and the lowest adjusted tax rate in the state, and by reason of the fullest possible return from the income tax refund gained over sixteen thousand dollars in 1920 through the change in the assessment ratio. Of the fifty-seven cities of the state, in 1920, forty-seven low-assessed paid tribute, as it were, to the ten higher assessed in the distribution of the personal income tax. In full value communities, moreover, there would seem to be food for thought on the part of assessors in another aspect of the situation. Here where there has been an increase in sale values over assessments through the last five years far over and beyond what any rational assessment roll should be expected to indicate, due, primarily to shortage in new construction; second, to absolute necessity of buying on the part of many, and, third, to the disparity between the purchase price of properties and the amount actually paid down, here I hold there is not only desirability for judgment on the part of the assessor but that the necessity that he exercise it may be rated at a premium. Should the assessor fail to do so and permit sales alone to govern his work, almost any city of the state will find itself with an assessment roll double the value of 1920 and the burden of a share of direct state



tax thrown upon it far beyond its due. In this emergency, I believe it is the duty of every assessor to avail himself of his constitutional prerogative to assert his judgment of values, let sales indicate what they may and where the work of this official indicates that he is watchful of events and fair in his decisions, and neither asleep nor prejudiced, as to values, he should have the support of the State Tax Commission. If not, a new ratio of values everywhere would seem to be in order.

The subject assigned to me today for discussion is the "assessment of business property," a topic accepted on my part with some reluctance in view of the comparatively limited scope of such in a city of about twenty thousand people, but having spent over nine years in office as commissioner of assessments, and, on that account, invited to speak, I could do no less than to accept the topic assigned.

The first duty incumbent upon an assessor is to acquaint himself as closely as possible with the properties in his jurisdiction and nowhere is the obligation more binding than in respect to business properties. Data bearing upon the value of the property should be obtained even to the most minute detail and if the same can be placed upon cards or sheets for reference whenever required, so much the better. The city of Geneva, in this state, requires of the owner that he furnish all the information obtainable as to the value of his property, a method which all other cities might well pursue. Every mayor in this conference should see to it that both the basic records of his department of assessments and the facilities afforded for producing a proper roll are adequate to the importance and the burden of the task.

The data descriptive of the properties in hand, the next consideration should be the establishment of the land values. The real basis of land value is the amount of its economic or ground rent capitalized. Of potential worth only until improved, land when located in the business section of a

city assumes another basis of value known as sale or exchange value, the price at which similar land has changed ownership. The basic assessment value of land is the price at which a standard lot in a given area is held or has been sold. Each block throughout the business area must be considered separately and when the value has been determined all similar lots on a block should be given the same value. No single influence making for value should be overlooked. A property with a rear right of way for delivery has a decided advantage over one that has none and should be appraised accordingly. Corners, and corner influences making for possible larger buildings, more air and light, larger window display, double frontage and greater accessibility must not be overlooked in justice either to the taxpayer or to the community. And, in determining the actual figures finally to be placed on land in every given area of comparatively equal worth, the fact must not be overlooked that of all the values on an assessment roll the one most justly to be considered stable and fairly permanent, is that applying to the land. Buildings may be destroyed overnight, but the land remains of imperishable value, possibly greater after the disaster than before. Great care must therefore be taken by assessors in appraising land value, the more so for the reason that a successful protest on valuation should result in reducing the assessment of adjoining lots, as well and often all the lots in an entire block. Only on the basis of true land values can any assessment roll endure. For the valuation of short lots use the Hoffman rule, and for those of greater depth the Davies rule for estimating value.

The land value having been determined, attention should then be turned to the proper assessment value of the building, if the property be improved. In their comparatively recent book on "Real Estate Principles and Practice"—Benson and North set forth highly applicable principles for the



valuation of buildings, which, briefly stated, are as follows: one, adaptability of building to neighborhood, from viewpoint of income; second, determination of the worth of a building as against cost depends upon adequacy of its improvement to plot; third, cost of the structure to be arrived at by the application of the factors of number of square feet of floor surface in the building or the number of cubic feet within the walls; fourth, decision as to whether the high value of the land demands a building of better type; fifth, estimation of the valuation of land and building together, the difference being the value of the structure, though it be far less than cost to produce; sixth, the increase or reduction of the valuation of a building, so far as advisable, to its cost of reproduction at the time under consideration, old buildings, and those not suited to their sites being given the adjustment to which they are entitled in the process.

Application of these principles of valuation should be comparatively easy to none who will apply himself to the task, and in the long run their use cannot fail to be far more satisfactory than the haphazard system too long in vogue in many sections. Buildings lose their value as they become old, the loss merging into the worth of the land. Data as to the square or cubic foot cost of construction of new buildings may be obtained from a local contractor and when necessary these factors applied for a determination of new values. Re-estimation of the valuation of buildings in use may be made on the net rental basis, the income being capitalized at an appropriate percentage to give the value. In this connection, however, consideration should always be given for the amount of service afforded by the owner, whether the rents are to be considered stable, and what the state of repair of the building as regards upkeep. Every test of value should be fair and just.

All in all, the work of an assessor especially in respect to business or income producing properties requires constant

study and a closeness and diligence of application scarcely to be encountered in any other profession or pursuit. To this there must be added the acquirement of an assertion and dependability of judgment without which his labor is almost worse than a thing undone but having which he is entitled to and should receive as a reward for his efforts, the support of his superiors, the confidence of his public and in the larger aspects the acceptance of his work as bona fide by the officials of his county and state. I thank you.

MR. WHITNEY: Gentlemen, I noticed in the discussion of Mr. Phillips' paper, that some of you hark back to the points that were made by Mr. Murray in his discussion on the tax of public service corporation properties. If I may suggest, would it not be well to proceed with the papers, and then have the general discussion, because one sort of overlaps the other. Of course, the assessment of residential and farm properties is different from that of utilities, but there are points which you of necessity will refer to in the discussion, and unless you direct otherwise, we will proceed with the two other papers, and then follow those papers with the general discussion of all the topics that have been touched upon this afternoon.

Hearing no objection, we will proceed, and it gives me pleasure to introduce Mr. William J. Burke, assessor of the city of Buffalo. Mr. Burke has been assessor for some years, and the growth in his task has been enormous. The results shown on the assessment roll, of course, were not all attributable to him, because Buffalo has grown and would grow with or without Mr. Burke. However, the satisfactory and sane methods of assessment in Buffalo have appealed to all those conversant with the work done by Mr. Burke and his associates, and I know from out of his vast experience as assessor, there will be a great many interesting points about which he can talk to you. Mr. Burke.



## RESIDENTIAL PROPERTIES

WILLIAM J. BURKE

*Assessor, Buffalo*

*Mr. Chairman, Ladies and Gentlemen.*—My subject is on the valuation of residential properties. My paper is based on what is done in Buffalo. The city of Buffalo contains about 42 square miles. There are 112,000 parcels of land. There are about 95,000 buildings. The city is divided into 14 permanent tax sections, and a deputy assigned to each. Each deputy has jurisdiction and prepares the value of about 7,500 or more parcels and the buildings thereon by the following methods, which were adopted by the board of assessors.

We will first take up the method of land values. In residential sections, land is computed by the unit system—that is, a base price for one foot front, 120 feet deep. For all lots having a depth over 120 feet about two per cent is added to the base price for each five feet of the excess depth. All lots under 120 feet in depth, the same percentage is deducted for each five feet under the 120 feet depth. Corner lots have an addition of 20 per cent to the base price but only for thirty feet of the frontage. Let me illustrate: On a street where the base price is fifty dollars per foot front, the value of a lot thirty by one hundred and twenty would be fifteen hundred dollars; if a lot on the same street was one hundred and fifty feet deep, nine per cent is added to the base price or is computed at \$54.50 per front foot, making the value \$1,635. If the lot thirty by one hundred and twenty is situated on a corner twenty per cent is added to the base price and is computed at sixty dollars per front foot, making the value of the corner lot \$1,800.

The above very briefly explains the method of computing the value of land, and we will now take up the method used to determine the value of buildings.

We use what is called the "index sheet system," a sample of which I have here and submit for your inspection. This sheet contains the property owner's name, description of the property, size of lot, location, etc. The deputy uses this sheet for his field work. He first sketches on the sheet the ground floor of the building, including veranda and other effects, such as bays, etc., placing measurements on the different lines and noting the different heights. He makes an exterior and interior survey of all the improvements;—the exterior survey determines the kind of foundations whether stone, concrete, etc.;—kind of construction, whether frame, tile, brick, veneer, stone, etc.;—kind of roof, whether wooden, shingle, slate, asbestos, tile, etc. He then makes an interior survey and obtains the information on kind of heat and light, number of fireplaces, number and use of rooms, number of rooms containing hardwood trim and floors, tiled and wainscoting and the revenue or income of a flat or apartment if rented.

While making the survey, he applies the rate per square foot for the body of the building, according to type. I might state the photographs here are of the types of different buildings that we have in Buffalo, or residential buildings which we are now classifying, so that the buildings in all sections will be assessed the same, and I invite your inspection to better comprehend the application.

After arriving at that value, he computes the value of the other improvements. If a stonewalled cellar, he applies the rate per square foot (ground area), concrete wall and any others treated in proportion to rate adopted for each, additions for heating, hot air, hot water or steam in proportion to area and rates adopted; then adds for electric wiring, hardwood floors, hardwood trim, tile floors, bath-



room, laundry and other plumbing, fixtures, vestibules, sun rooms, bays, dormers, bookcases, built-in refrigerators, in fact, all permanent fixtures.

I might state that this is one of the field sheets that we have (indicating). Now that field sheet is gotten up in this way. A diagram of the building drawn on here showing the size 24 by 56. That building has been valued at \$2.20 a square foot, and that gives you \$2,640 for the body of the building. The basement \$420.00; the bays \$100, goes along down—hardwood floors, etc. The assessment totals up \$4,314 on that building. Now that building in 1920 was sold for \$9,000, including land. The building is figured in this way, at \$2.20 a square foot in 1918-1919. Since then there was an addition of ten per cent added to the building. Also 50 cents a square foot added to it in 1921; 50 cents a square foot added in 1924, reason for that,—the sale price of that building probably in 1920 was \$9,000. Today you probably could not buy it for less than eleven, probably twelve thousand.

All of the above pertains to ordinary single and two family houses. For the higher type of houses we use a square foot price on floor area; after segregating same into different classes, we find this a very good process of determining value.

In addition to the above, the deputy must follow all sales and any other information in transfers of property in his tax section in order to be posted on all the facts which pertain to values; all the information contained in the deeds passing through our department daily is transcribed on cards for this purpose, a sample of which is posted. There is a sample of those cards there (indicating) and if anybody wants to look them over, he may do so.

The mortgages recited in the deed and the revenue stamps attached are carefully computed to give actual amount of sale, and from these cards we make a report each year to

the State Tax Commission, giving the amount of sales and assessments for their use in equalization of special franchise assessments. Last year we filed with them sales of over fifty-three million dollars.

This provision of the charter is of great importance as the daily conveyances will average seventy-five contained in an average of 60 deeds a day. If a deed is filed in the county clerk's office, say today, we have it in the assessors' office to-morrow morning. The number of deeds registered from January 1st, 1922, to January 1st, 1924, was 18,430, approximating a value of \$103,000,000.

All of the above you will agree causes considerable work and with the great number of new buildings added each year we have a sheet showing all the information pertaining to the buildings on each parcel and the amount of the sale, but we assure you that you never can get too much detail information. The net result is a permanent record, a uniformity of action, which tends to equalization satisfactory to officials and taxpayers alike, so that, time and effort and money are well spent.

One of the gentlemen spoke here this morning about complaints. Before this system was adopted in Buffalo, we were compelled to use all the available space in the city hall and employ at least fifty or sixty men to wait on the people coming in on complaints. With our 112,000 parcels today, for the month of December, we averaged 250 complaints, 250 will cover all the complaints we have now under this system, which was started in 1915. In 1917, the first increase that was put on the roll was \$143,000,000. That brought the tax rate down from \$29 a thousand to \$21. We had this experience in 1917—we had about 75 per cent of the city finished, and the mayor, one day, sent for me and said he understood that we had about 75 per cent of the city finished. I told him we had. He wanted to know about the other 25 per cent. I told him the commissioner



at the head of our department wanted that valuation put on the books, so he said he didn't think it was fair that 25 per cent of them were let go, and so I talked it over with the other members of the board and we decided to go out and get the 25 per cent by putting on a tentative value, taking a deputy from each district. I went down to the commissioner and told him we could go out and clean up this 25 per cent. I told him to give us three machines. He wanted to know how much it would cost. They always ask you when you go out to make an assessment how much it is going to cost, so I told him it would cost about \$600. We went out and we divided the city up in three sections. Each member took a section. We went out and we added thirteen million in this way. We went from house to house which had a thousand or two thousand dollars on it under the old system, and according to the assessors' and deputy assessor's judgment put an increased tentative value on it. In that way we put on about thirteen million dollars. I have a little story in my mind about what happened to one place.

We came along to this place, and one of the assessors in the office, who was a deputy at the time, driving along would read off the figures. He said: "\$900.00 for improvements." I asked: "What, \$900.00. \$900.00 for that store building and that two-family frame in the rear?" He said: "Yes, \$900.00." "That can't be right," I said, "check it up." We checked it up and found out that it was only on for \$900.00, so we added \$5,100, put it on for \$6,000 tentative assessment. I knew the party very well that owned the property. He was a pretty good friend of mine. He came up and looked the assessment over. He put his head through the doorway and gave me the word to come out. I went out, and he said: "What are you doing to my property out there?" I replied: "What is the matter with it?" "You have raised me about five thousand," he

said. "Well," I answered, "who put that assessment on that property?" "The best man that was ever in this office put that assessment on there," he said. "Well," I said, "I will have to agree with you, he was." "Well, what are you going to do about it?" "What am I going to do about it," I said, "do you know the charter gives us the power to double up that assessment? That is what we are thinking about doing." "For God's sake, leave it alone, I will pay it."

I want to call your attention to another matter, to give you assessors an idea of the assessment system in Buffalo and how close we get to the value. Here is property here, what they call the "civic center." Any of you gentlemen ever been in Buffalo, you know where the New Statler hotel has been built. The city of Buffalo is going to buy property in that locality and is going to establish a city hall and court and state building on this property. One hundred and seven parcels of land are involved. The real estate board went out and appraised and filed its report to the council about six months ago. Their appraised value of this property for 1924 is \$2,644,000. Our assessed value for 1924 was \$2,314,000. We are within \$330,000 of their appraisal for buying it for the city of Buffalo.

I don't know as there is anything else,—but I would like to say, if any of the gentlemen here want any information on what we are doing in Buffalo—we have had several of them there—we would be glad to have you come at any time, if we can be of any service, and we will try and do what we can to help you out. You will find the land value sheets for business and for residence property, and you will find the business property sheets are based on 100 feet in depth. You will find field sheets here, and we have field sheets already made out, and if anybody wants them we will be glad to let them have them.



I want to thank the Tax Commission for inviting me to come and talk to this conference.

MR. CHARLES J. TOBIN: Mr. Chairman: Just for information, and not to start a discussion, I would like to have Mr. Burke tell us who supplies the unit prices or unit values to the department deputy. Are they appraised from the central office or made up—

MR. BURKE (interrupting): Made up by the board.

MR. TOBIN: Those are sent through each year, is that so, or just how?

MR. BURKE: Why, in this way. That is, you take a certain section—we have a section in Buffalo called “Hertel section.” Now, of course, we find out the sale prices, because we get them every day. We sit down with that deputy for that section and go over each street, and we check with him on the sale prices of this property.

MR. TOBIN: That really does not answer my question. What I am concerned about, is the unit price on masonry, on carpentry work, on bricklayers? The labor item goes into the valuation of the building. Who supplies those particular units and how often are they appraised by the deputy?

MR. BURKE: The deputy gets all that information outside. He gets it from the contracts and the board decides the units to be used.

MR. WHITNEY: The next topic and the last formal paper to be heard, prior to the discussion of all of these papers that have been read, is that on assessment of farm properties. I have no doubt that the majority of assessors in attendance at this conference have to deal with the assessment of farm property. We will hear from Mr. E. B. Noble, assessor of the town of Vernon, Oneida county. Mr. Noble has given a great deal of thought and time to the matter of assessment of farm property, and we feel satisfied he can tell us something of interest here.

## FARM PROPERTIES

E. B. NOBLE

*Assessor, Oneida*

*Mr. Chairman, Ladies and Gentlemen.*—You have listened to four very able and interesting talks, and I am sure we have all enjoyed them. The only trouble is these gentlemen have said everything that I have intended to say, and therefore do not feel that there is much left for me to say.

The subject assigned to me is the determination of values of farm property. The determination of values of any class of property requires experience, judgment and a familiarity with the property in question. To determine values of farm property in these days of abnormal sales, inflated prices requires even more than this, it requires in addition a specific knowledge of each individual case. I have sometimes wondered if those three wise men from the east, had they been assessors, would have been able to arrive at a standard of values that would satisfy all of our taxpayers.

I will give you briefly the experience of assessors in the town of Vernon. In the winter of 1920, we were called to meet with the State Tax Commission, and the other assessors of Oneida county at Utica. We met with them, and we listened to some able and interesting talks and arguments, and saw some mighty convincing figures, showing the benefits derived from full value or higher assessments.

Our town was fortunate that year in having on its board of assessors two men especially qualified to perform the duties of that office. One was a contractor and builder with many years of experience. The other a practical, suc-



cessful farmer. Both had lived in the town all their lives and were well acquainted with property in the town.

We went from that conference determined to place the town we represented in a position to receive some of the benefits derived from higher assessments. We went back home and began talking it. We had our newspapers advocate it, and by spring we had succeeded in getting ourselves pretty well disliked. We went at our field work earlier than usual and we took our farm property first. We went at it in a different manner than ever before. We practically discarded our previous years field books,—ignored the assessments entirely. The first things, we took into consideration were the buildings on the farm. We went into the house and we looked for hardwood floors, heat—steam or hot water, heating plant, plate glass windows, up-to-date plumbing, tile bathrooms, fireplaces, and if we found any of those things, we noted it. We did not find a great many of those on the farms, but we found some. Then we went outside and we looked the buildings over from the outside, noted the construction, what the roof was covered with, whether shingles, slate or whatever it was. We then measured up that building and got the number of square feet, and then our contractor gave us an estimate as to the cost of that building, and cost of reproduction. We then went at the other buildings on the farm the same way. We went into the stable. If there were concrete floors, running water, steel stanchions, silos, any of those things that go to make up a good barn or good farm property, we noted them. Then we had the contractor give us an estimate on that in the same way. Then we agreed on a sum to be deducted which would represent the deterioration of those buildings and the necessary wear and tear, and would give us a figure that would represent those buildings as we found them.

We then went over the farm in the same way. We went

out on the land, looked at their wood lot, their pasture and meadow, the orchard, the land under cultivation, growing crops, etc. We wanted to get an idea of the fertility of that soil, whether it was a good farm or a poor farm. We also looked for the water supply on that farm. That was quite an item too. Then in addition to that the location of that farm came into consideration, whether it was on the good road, good state road, or whether it was back on a dirt or gravel road, and the general condition of those roads. Also, we noted the distance from that farm to the milk station, or creamery, the church, the school, the market, and shipping point. We took those all into consideration. Then in addition to that, if there had been any sales on that farm or any adjoining farm, if they were bona fide sales, and they were still on the farm paying for it. We took those things all into consideration. If there were one of those sales, which we all have heard about, the stranger comes and buys a farm through some farm agency, perhaps buys it without even seeing the farm, and pays three or four thousand dollars down. After he has been there six months or so he finds out he has paid perhaps as much again as the farm was worth or that property was selling for anywheres around. He becomes discouraged, goes back home and loses the money he has paid in. That is a sale, gentlemen, no question about it—on record in the county clerk's office, and it is a transaction between a ready buyer and a willing seller—very willing, tickled to death to sell. (Laughter and applause.) Those sales we did not recognize. We ignored those entirely. Then we gathered all those facts up, gathered them all together, and from those we agreed on a price per acre for that farm, multiplying it by the number of acres, added to the cost of the building, and those figures represent our figures for assessment—our value for assessment purposes.

We went over the entire town in that way. It took a



long time to do it. We had to have an extension in our time, but we had our supervisor and our town board back of us, and they told us to go at it and get it right. We then copied those field books on to the town roll, and made our extensions, and after grievance day, made our footings. Our total footings were \$3,820,000. The previous year they totalled \$1,799,000.

Each year since then we have revised, gone over the properties carefully, revising, equalizing, wherever conditions would warrant increasing, and each year our total assessments have increased, and our tax ratio has decreased. Last year, 1923, our assessments totalled \$4,121,000,—practically a little over that, and we had the lowest tax ratio in the town of Vernon we have had in twenty years. We feel that we did the right thing and we know we are paying less in dollars than we did under the old system, and we believe that our taxpayers agree with us. We know that the benefits derived from our share of increased income tax has been a big one.

In conclusion, I want to say just a word regarding the State Tax Commission. Previous to 1920, our attitude toward them had been rather of an antagonistic nature. We did not like to make the list of sales they wanted us to make. We did not like to meet with them—to open our books for their inspection, and to listen to their criticisms and their suggestions. We felt that we were in a better position to know conditions and know valuations than they were. We felt in a way that they were discriminating against us. But that year we decided to play fair and to work with them instead of against them. We soon found that they were only too ready and willing to cooperate with us and to assist us in every way possible. We have been to them with our problems and our troubles and have always found them very ready to give us the best kind of advice and suggestions.

We have followed them and we know we have been benefited. Gentlemen, I thank you.

MR. WHITNEY: Gentlemen, before throwing these papers open for discussion, I know you will be very glad indeed to know we have one of our old friends, Judge Schwab, a former state tax commissioner of New York, with us, and I am going to ask him to say a word to you. Judge Schwab is now the president of the Allied Business Men's Protective Association of New York.

HON. JOSEPH S. SCHWAB: *Mr. Chairman and Gentlemen Assessors of the Conference.*—It certainly is a pleasure to be with you again. I well remember quite a few of the gentlemen present here today, with whom I came in contact when I was one of the state tax commissioners. The last conference I attended was in 1915, and I had the pleasure of being selected the permanent chairman of that state conference. Much progress, I notice, has been going on in the good work of the assessors of this state. You have shown by your vigilance and attention toward the many things that come up to you from time to time as that warrant me in saying that you are a handsome and as progressive a lot of men the state has ever had. I hope to see you so well advanced in the art and science of assessing property that New York state will be pointed to as one of the best states for a fair assessment in this Union—and where assessors do their full and fairful duty.

I think one of the things I advocated in the year 1915 has not been consummated. I don't understand why a body of men doing the good and faithful work that the assessors of this great state are performing and are compelled to do are obliged to still live on a measly salary of three and four dollars a day, when you ought to be getting eight to ten dollars a day at the very lowest. (Applause.) I think it is an outrage that such a state of affairs should continue—certainly the assessor, like every laborer, is worthy of his hire,



as the saying goes. The assessors of this state are performing an arduous and useful task, and I say you can't get your proper pay too quick, and I hope to hear that what I tried to put through in 1915 will soon come to pass. It was not my intention to make a talk. I received a courteous invitation to be here, and one of the little notations on the invitation was from your worthy chairman of the State Tax Commission, asking me if it was possible to be here, not only that I want to be here, but I want to say I am delighted to be again with you in order that I may look into the faces of a number of my old associates and friends whom I worked with when I was a state tax commissioner. I am not going to trespass on your time further than to say that I am glad of an opportunity to renew old acquaintances and with those whom I want to see as I circulate around the audience a little later,—and now I wish you all Godspeed.

MR. WHITNEY: Now, gentlemen, we have the five important papers, determination of values of public service corporation properties, industrial properties, business properties, residential properties and farm properties. Now there must be many thoughts passing through the minds of you gentlemen who were here and heard these papers read and possibly there are questions you would like to ask the speakers, or questions which might occur to one another as the others are speaking. Now, gentlemen, the matter is in your hands.

MR. TOBIN: Mr. Chairman, I would like to ask Mr. Noble if he can tell us how his town board of assessors treats the farm that is isolated and remote from the road. In many of our towns, half of the farms are so situated, and I would like to know how they treat those farms on the town roll generally.

MR. NOBLE: I meant to explain in my talk that we took the location of those farms in consideration in making our value on them. Of course, we all realize that a farm way

back from the road is not worth as much per acre, and that is the way we treated those farms.

MR. TOBIN: I am interested for the reason I act as commissioner of equalization of Rensselaer county, where more than half of the towns are made up of farm lands, and in many of the towns the land is entirely removed from any avenue of business. The problem is to know how those farms shall be put on the roll. The board of assessors come forward and say the best value you can get per acre from one-fifth, and sometimes they say there is no value to those farms. I am satisfied that a good many of the remote towns and counties are being assessed on too high a basis of equalization. They should take into account the remote farms, the poor farms and the farms of no value.

MR. NOBLE: That is a mighty big question, I will have to admit. We only had our own judgment to go by. We realize that a farm away back was not worth as much. You might be able to raise just as much, but it cost you more to get that stuff to market, and the farm would not sell for as much.

MR. WILLIAM ROHDE, Erie county: I would like to ask if he figures the house and buildings separate from the land, and if so, did he place a larger valuation on the house that was within a mile of the town than on the house that was located seven or eight miles from the town? How did you assess it?

MR. NOBLE: I don't think that the location makes as much difference on the house. The value is there. The location would make a difference on the value of the land. That was our position. It would cost just as much to reproduce the house whether it was located near the town or not.

MR. ROHDE: Excuse me for just a moment. I have in mind a farm that is located far from the town, perhaps valued at \$6,000, but you could not sell the whole farm for \$3,000.



MR. NOBLE: We have those same conditions up there. We have them all over. I believe that an assessor can use a lot of judgment in those things. We don't claim to be perfect. We do the best we can.

MR. SEYMOUR ROGERS, Erie county: According to Mr. Tobin's idea the tax assumed by the state of New York is all wrong. Now you can't make one set of laws for one locality and another set of laws for another locality. In regard to the equalization rate as given out by the State Tax Department, I think you have to agree, that only when they have all the information possible will they give a rate for equalization. It is too bad that the people down in the county he comes from have got some farms that aren't good, too bad they live back off the road a considerable distance, and that there is no value to their farms, but law is law, and one law in the state of New York covers the whole state.

Now I would like to ask this gentleman (indicating) a question relative to what he figures a new improved road adds to a farm; how much per cent would he add where a road has been improved, say from a dirt to macadam surface?

JUDGE KNAPP: There seems to be a misapprehension. The tax law provides that in cities the land must be valued separately. The next column provides that the total valuation shall be put down. In other words, determine how much the value of the building adds to the value of the land; that law applies to cities only, not to villages, not to towns, not to farms at all; of course, good buildings will add to the market value of farms but the cost of reproducing the buildings may be much more than the actual value of the entire farm, as a market proposition. I had a case where I was attorney for a railroad sometime ago. The railroad went through a little orchard, of two hundred trees. All the experts from Hobart college testified that those trees were worth \$60 apiece. I asked them if the entire orchard

was as good as the trees in the right of way that the railroad wanted. They insisted that the whole orchard was as good as the right of way. They had placed a valuation on the entire farm of \$10,000. I called their attention to the fact that the 200 trees in the orchard at \$60 would make the orchard worth \$12,000. In other words, according to their testimony, the value of the orchard was \$2,000 more than the valuation of the entire farm including the orchard. How are you going to get away from that proposition?

MR. PETER CANFIELD, Sullivan county: Now I am going to describe to you the condition that I have to assess under. Down in Monticello our town had land that the state refused to buy at three dollars an acre. I wouldn't say it was over-valued or under-valued, but that was the price the owner offered to sell it for. It is assessed for \$1.90. Some of it has been cut off, a rock ledge fenced in, and an estimate made for that section of \$8,000. That is deer pasture. Some of it is almost as dead and barren as that platform there. We have other land that is blighted, oak blight and chestnut blight, and butternut blight, and some of those abandoned farms are covered with that. Now, then, the state would say, there is timber. That timber, gentlemen, is owned by individuals, and the value of it is the trifle that we can get from lumber dealers. Today birch is very scarce, men are scarcer, and that lumber is almost worthless. A man will come to you and tell you what it would cost him to get it to market on account of the poor roads. What is the value of it? The place is abandoned. Gentlemen, how does the state get that value along the Mongaup stream? It is the line betwixt this town and the county of Sullivan and Orange county. A company comes on there and the state grants them a right, tells them they may issue ten millions of bonds or stock. They go along that Mongaup stream and buy up that property. Was it individual money, or was it corporation money? It was a corporation, and



they used the money freely. They took advantage of it and they got four or five times its actual value. I want to say that such sales raise the value of adjoining property. They have got what they wanted and they stopped there. They were willing to pay for it to get a monopoly or water power. Now, is our town going to be valued from those sales? There were other sales made there, and two or three transfers. There was a little lake they wanted to put in, and they gave a large price. They won't give more than it was worth for that property. Now is the assessor going on the ground and say this property is worth so and so? In another year you have a nice lake here, and you put up summer resorts, and maybe a hotel. It *went up* to the assessor to do this and I hope the state gets a hold of those transfers and that they will give it consideration.

MR. GEORGE B. ELWELL: Just one moment, for the benefit of the farm assessors. Now up in Wellsville, we have a value of \$1,800,000 in farm land. I will admit this valuation caused me some trouble and worry at first to obtain it. After visiting all the farms and talking things over with the farmers themselves, I came to the conclusion in 1918, that the only way possible to get a true, accurate value of one hundred per cent on those farms was to allow the farmers to assess their own farms. Our experience with the farmers along this line of work was very successful. The next year after this assessment was obtained, there were eighteen farms sold in our town; when the sales came in the next year and were checked back with that roll, they sold for just \$200 more than they were assessed for. I would rather have the knowledge of twenty good farmers in determining the value of farms than anything I know of, outside of the bona fide sales. Take the judgment of twenty men, on an average they will very nearly arrive at the true value on any piece of property. The real estate man never sells to the first man that comes along; he is more likely to have twenty cus-

tomers look at a piece of property before he closes a sale. The man that finally buys has got the advice of the village banker as well as every other man within a radius of a mile or two. The man that generally purchases property is pretty well satisfied that he has a bargain. They don't unload their pocketbooks with that hard earned money so easily. As a general thing, there is no man that knows the value of his property better than himself. He has put his life work into that property and he knows all about it. The farmer knows all about the productive value of his farm; he knows whether there is one railroad or two running through his farm. He knows whether there are one or two creeks running through his farm. He knows whether one highway or two run through his farm. Mr. Assessor, don't you ever try to override the judgment of twenty good farmers on the value of their farms, unless you wish to get left.

You go home and call your farmers together in a room, take them into your confidence and tell them to assess their own farms on a 100 per cent true value. You stand in the corner from seven o'clock in the evening until two in the morning, and they will tell you all about the good and bad qualities of their farms. Assessing the farms is the easiest part of my job. I don't give much attention to that part of my work any more. They do it themselves. Gentlemen, you hear so much about the awful condition that the farmer is in at the present time. Now that is true. He is in a bad condition financially, but remember you farmers can come down to almost any village or city and see hundreds of thousands of dollars worth of property tied up in industrial factories standing still, some of which have not turned a wheel for a year. What do you think of the condition those people are in financially? A large portion of them are borrowing money by the thousands to keep afloat. I tell you it is not the farmer that is the only one that is in a pinched condition at this time. Everybody is in the same



boat. No assessor wants to hurt the farmer, but we want the cooperation of all you farmers. We want you farmers to come in and realize that you are a part of this great system of taxation that goes to support your government. I think that is the milk in the cocoanut on this question. Cooperation. Come together, drive out of your minds that greed and selfishness, and do what you can to help sustain our government. I have little use for the man that this government has protected by laws that have allowed him to expand his energy to that extent that he has been able to grasp everything in the shape of good property. I have no patience with that man, when he comes before me and wants to force down his assessment for the only purpose of avoiding his just tax. I want that man to pay, and he will pay, if you will use the right method with him. Cooperate with him, try and show him that he is a part of this government, as well as the home owner, and farm owner, and the small business man.

There is another question. Mr. Phillips, I think, has expended a lot of time in getting at the true valuation of industrial plants. I found the best way is to have the owners bring in their appraisal that has been made by expert appraisal companies, such as the National and the Keystone. I find it a very easy matter to determine the realty assessment from these appraisals under the Emerson law. We use this method in Wellsville and find it very satisfactory. We have had two sales in industrial plants in the last three years. One sale was for \$220,000, the assessment having been \$215,000. Another sale was for \$105,000, the assessment having been \$100,000. If this system of assessing industrial property could be established and carried out by all the cities and towns, it would save time and energy. These appraisals do determine the value of this class of property. They contain every item of construction with proper depreciation allowed. My experience

with them has taught me that men dealing with that class of property do rely mostly on their accuracy in determining the true sound value. The insurance companies accept them as their only guide when they are called upon to pay the loss after a fire. They settle from the standpoint of reconstruction with proper depreciation allowed. That is the first thing the adjuster asks for when he arrives after the fire is your proof of loss.

I find so many times when a piece of property of this nature is sold the purchaser does not rely on his own judgment altogether in buying. He must have something of this kind to guide him. We have adopted this system up in Wellsville, and find the results reached very satisfactory. We have very little trouble at grievance time with this class of property. There is no argument left in the matter, you have arrived at the true, sound value, and have applied the assessment. I thank you.

MR. IRVING C. RUMSEY, Spencerport, Tioga county: I am here to try and learn something for the benefit of my constituents down home. I find we all have about the same tax problems. We all have these properties where the houses are worth a great deal more than the rest.

MR. WHITNEY: There is a possibility of the governor being here. You will not wish to miss him.

MR. RUMSEY: The farmers down there wanted me to come up here and find out what I could do to get their taxes equalized down to a hundred. We have heard a lot about equalizing them up to a hundred, and I think I have learned something.

MR. WHITNEY: We will now hear from the secretary of the New York State Tax Association as to the committee authorized this morning for nomination of officers for the ensuing year. The secretary will please read that list.

The Secretary: For Chairman, Francis N. Whitney; Commissioner Mark Graves; L. G. Tuttle, Southhold, Suf-



folk county; Timothy Murray, Tax Commissioner, city of Yonkers; George Y. Webster, county attorney, Monroe county.

MR. WHITNEY: I have been advised by Mr. Cole, chairman of the resolutions committee, that all resolutions must be in writing, and must be in the hands of the secretary, or Mr. Cole, not later than the end of the session to-night. Please bear that in mind, because the resolutions committee must have time to prepare their report for to-morrow, and that cannot be done if the matter is delayed until to-morrow's session.

Now, further advice comes through Mr. Cole that the museum, in this building, I believe, will remain open until six o'clock to-night, so the delegates may have an opportunity to visit it if they are so inclined. That is later than the usual closing hour, a matter of courtesy to you gentlemen, to remain open until six o'clock.

Anything further, you wish to say upon the five matters discussed here?

MR. WILLIAM P. THOMPSON, Livingston county: I wish to speak on the public service corporations. One gentleman said this afternoon they had reduced the tax rate on a certain railroad twenty per cent. We increased ours this year, in our town, ten per cent. We noted that when we farmers had to ship hay to New York, it cost two dollars a ton more than it did before war time, and this goes into the railroad company's treasury. Why should we reduce the tax on these public service corporations when they are fattening themselves?

MR. MURRAY: I spoke on public service corporations, but I made no such statement in my address.

MR. WHITNEY: Mr. Murray did touch on one of the points if I may say, but not to the extent as stated by the gentleman from Livingston county. Mr. Thompson proposes, on account of the increase of two dollars per ton on the

shipment of his hay, to increase the physical property by a going concern or good will value which is not within the jurisdiction of the local assessor. He is confined entirely to the present value of the tangible physical property alone, not as a part of a railroad system, but what it cost to put that property there, less depreciation. The earning power has nothing to do with the assessment of the public utility property. That is all taken up as explained by Mr. Murray through other provisions of the tax law.

MR. THOMPSON: As I understand it, the charter of a city gives assessors privileges which we don't have in the towns. I don't know, but may be we have in the counties or town assessors who have been down in the cellars, or in the house to examine the hardwood floors or the bathroom. We take the elevation, the size of the block and the adjoining property to get at the valuation. Now you may have a building that is not very valuable, but if it is used for moving pictures the returns are more than they would be if it were not used for that purpose.

MR. WHITNEY: I am not an assessor, but my judgment would be, you could not. You see that is taken up—the value of the use, the value to the owner of the building—is taken up in the four and a half per cent tax on his net earnings, under Article 9-A of the tax law. In addition to paying a real estate tax, he has to pay four and a half per cent tax on net income from doing a picture business, and in that way the state gets the tax, so if you do the way you suggest, you would be getting it twice.

A Delegate: I would like to ask Mr. Elwell how he would arrive at the taxation of a cheese factory worth five thousand dollars, in running condition and the milk station comes along and buys it up. Would he still assess it at \$5,000, because the building is worth that, although it is not in use?



MR. ELWELL: I must confess we haven't got a cheese factory up in our county, but the property is there. Somebody owns it. You can't pass it up. As I understand it, you have hardwood floors on the bathroom. The way we do that, we take the elevation, the size of the block and the adjoining property, and get at the valuation that way. One other thing, if you will permit me, the business property, whether you can take into consideration the business that is done in that building. For instance, the moving pictures. Now you may have a building that is not very valuable, but if it is used for moving pictures, why, of course, the returns are big on that building, more so than would be the case if not used for that purpose.

MR. WHITNEY: Might have a value as a cheese factory, but not have a value as a moving picture show.

A Delegate: Will you please explain what right an assessor has on a property; can he go into a building and assess it?

MR. WHITNEY: Personally, I don't know. Perhaps someone else can answer that. I don't know how far you can go without running up against a shot gun. Your fellow assessors ought to be able to answer that question. What is the question again?

A Delegate: What right has an assessor, in making a physical examination so as to determine its value?

MR. ELWELL: I can't see any real good reason why you should visit the home, unless the fellow has something in his cellar you could use. In order to bring that man to terms, place your assessment on his property high enough, so he will come and beg you to visit his home.

MR. WHITNEY: There is more than one way to milk the cow.

A Delegate: We have run up against people complaining about the assessment being too high. Just while I am on my feet, I want to answer this brother over here who said he let the farmers assess themselves. Now in my experience of six years, you can't get one man in fifty to put a value on his property, not if you furnish the envelope and postage, and the writing materials to enable him to send back the information.

MR. WHITNEY: The gentleman from Wellsville proposes to get all the farmers in one room and let each one tell about the other.

MR. ELWELL: I can't agree with the gentleman at all on that. These farmers are all square men, all fair men. What they want is fair treatment. What they want is to have something to say about their own affairs. Now you give those people that right, bring them in, interest them in their own affairs, convince them that **what you want is right**, that you are not going to rob them in any way, shape or manner, and you will find that they will meet you half way.

MR. JAMES SLACK, Whitney Point, Broome county: I would like to answer this gentleman's question here. We have in our township a number of abandoned brick yards. Some years ago these were a good source of revenue. The buildings are there, and the equipment is there, to a great extent, but the clay and the sand are gone. What are you going to do with it? Assess them at the value of that property, or of the buildings? You cannot. We use, as I say, common judgment. They are worthless, and we assessed them accordingly. It is the duty of the assessors to use their own common sense. If the property can be used for some other purpose, all right, but if it can't it is the duty of



those assessors to act accordingly. Now, then there is our property that has been acquired by the Palisade Park Commission some years ago. Of course they paid a certain amount. The Tax Commission came down last year and told us to assess it at a million and a half. I wasn't a member at that time, but the three members went at it independently and got it up two million and a half. Here is the sticker. When we tried to raise the assessed valuation of that state property in the township of Stony Point, we were told we could not raise it. I would like to know why we cannot, and if we cannot, what authority have we? And as to the railroads, who can tell us how or give us the right to assess them as we think they ought to be assessed?

MR. GEORGE COLLES, town of North Harmony, Chautauqua county: Our experience is this: When I first went on the board of supervisors, the assessors came to me and said the railroad company was very harsh toward them, called them everything they could lay their tongue to, because they raised their assessment a measly one thousand dollars, and that it forced them to have a survey. The next year when grievance day came, we had our survey. Their Mr. Maloney came, and to his astonishment we had raised the assessment fifty thousand dollars. He didn't make any bigger fuss over fifty thousand than he did over the one thousand. We have been carrying that along for the last six years. Last year it was settled, but every time that we raised our assessment in the town we raised it on the railroad, and the railroad thought they should not be assessed for more than one hundred and forty thousand. When we got through, we had assessed them for two hundred and seventy-five thousand, and we have settled on that point. I believe that every town that is having trouble with railroads should have them surveyed by an expert, and I would

heartily recommend the engineer that we had, Ellsworth, Patton and Reeves of Buffalo.

MR. WHITNEY: That is in line with the suggestion made by Commissioner Murray.

A Delegate: I have heard a whole lot of discussion here today, pro and con, on the different subjects,—cost of operation and high assessments; but I haven't heard anything said about cutting down budgets, and I don't think that you will ever hear of any less assessments until you hear of smaller budgets of appropriations. I don't like to hear the farmer criticised, because he isn't cooperative. I think the farmer has cooperated to his sorrow in a great many respects, and we are all the time trying to raise it up; but we are not at all anxious to cut our budgets.

MR. WHITNEY: I am very glad indeed to have the gentleman speak about the curtailment of expenditures. It is my good fortune from time to time to be in attendance with the National Tax Association, and at the last meeting of the Association the question of curtailment of expenditures came up, and they were fortunate enough to enlist the cooperation and sympathy of former Governor Frank O. Lowden, of Illinois, and he has consented to accept the chairmanship of a committee of the National Tax Association, looking toward curtailment of governmental costs and expenditures.

I am going to retire in favor of your permanent chairman.

CHAIRMAN GILCHRIST: The committee on resolutions will meet to-morrow morning in this chamber at nine-thirty o'clock. I have just received word from the Executive Chamber that the Governor anticipated being here this afternoon, but is unavoidably detained by an important confer-



ence. He will address us at some time during to-morrow's session.

The meeting will now stand adjourned until eight o'clock this evening.

Adjourned 5:00 P. M.





### THIRD SESSION

WEDNESDAY EVENING, FEBRUARY 20, 1924, 8:10 P. M.

#### Taxation of Moneyed Capital

William H. King, Assistant Corporation Counsel, New York city

Michael F. Dee, Attorney, New York city

#### General discussion

#### School Taxation in Rural Communities

Frank B. Gilbert, Deputy State Commissioner of Education, Albany

#### General discussion

CHAIRMAN GILCHRIST: The first speaker this evening will be Mr. William H. King, the assistant corporation counsel of the city of New York. His topic will be "taxation of moneyed capital." Mr. King has represented the city of New York and other cities of the state in the recent court actions respecting the local taxation of shares of stock in national banking associations. He also appeared before committees of the United States Congress and has aided in the drafting of bills affecting the taxation of moneyed capital.

It gives me great pleasure to introduce my old friend, William H. King.

## TAXATION OF MONEYED CAPITAL

WILLIAM H. KING

*Assistant Corporation Counsel, New York City*

*Mr. Chairman and gentlemen of the conference.*—This subject of moneyed capital tax,—I feel it a great privilege for me to speak upon to the assessors of the state, because it is one of the new subjects of taxation, and has come to be a very important one, and it has been my duty during the last two years to work in the office of the corporation counsel of New York city in defense of the statutes of the state in litigation respecting bank taxes, and then later with respect to proposed legislation after the decision in that litigation, and also in cooperation with the Tax Commissioners of New York city in the endeavor to enforce that law by making suitable assessment rolls; and now in litigation which we have pending with respect to the validity of the statute and with respect to the property which was assessed by our tax commissioners.

It seems to me that in the short time which is assigned for discussing this subject, we are not so much concerned with the various legal questions and controversies which have arisen, but that as officials, tax assessors and attorneys charged with the duty of enforcing the statute, to examine in some respect the duties which are cast upon us with respect to this new legislation.

In that way I hope that I may in some way be helpful because we have in New York city, been through these different phases of the questions concerning the legislation. It seems to me that we might best approach it by considering first why this legislation was passed, and secondly, what



was the legislation, and then, thirdly, how it is to be enforced.

The legislation was due to the fact that revenue was needed for the localities, which before that decision in the bank tax litigation had relied upon receipts from bank taxes. The bank tax was the only form of intangible property which was left for taxation by the local authorities. The state had taken over the taxation of other forms of taxable property in the form of income taxes, and litigation thereupon began, the claim being that our assessment of bank shares, national bank shares, was invalid because it was not in accord with the provisions of the act of Congress, section 5219 of the United States Revised Statutes, which permitted the taxation of shares of national bank stock. That statute said that we might assess the shares at the same rate that we assessed other moneyed capital in the hands of individual citizens of the state; and the claim was that we had not done that, because we were assessing bank shares upon the basis of actual value at one per cent, whereas we were assessing other moneyed capital only on income basis, and the Court of Appeals decided that the claim was valid, and the taxes illegal, and hence all the cities of the state were called upon to make refunds of bank taxes.

There was only one way open—namely to correct the law in accordance with the act of Congress, and meanwhile Congress had amended section 5219, which is the authority for taxing shares of national banks, and had provided that we might assess shares of banks or income of the banks, or the income from dividends of banks, and so the Legislature was confronted with the question of which one of these three forms should be adopted. But Congress had so limited the kind of income tax that we could impose on banks, had made of it such a favored class and provided for such inadequate revenue with respect to income from dividends, only one of the three methods being permissible, that the state

naturally turned to the form of taxation that it had before, namely, bank stock. So this act of 1923, chapter 897, was enacted by amending various sections of the tax law, by putting in some new sections and leaving in old ones, thus forming a complete system by which the shares of banks could be assessed and the moneyed capital could also be assessed.

With respect to just what this legislation was, we find that the Legislature in our state law adopted the exact language of the act of Congress for assessing the shares of national banks. You will find those words repeated in four of the sections as to what moneyed capital was to be taxed. We find also that this act closely followed the provisions of the tax law which had been in effect with respect to assessing shares of banks. That is to say, the tax date was made the same, May first. Reports were to be required from owners of moneyed capital just as reports were required from banks. The assessment roll was to be made up as of August first and the notices were to be given both to owners of moneyed capital and to banks of the completion of the roll, and the same grievance day was named, the third Tuesday of August, and the same dates for hearing and for filing the roll on the first of September, so that we had a parallel system for assessing bank shares and for assessing this moneyed capital; and it was deemed that the assessors who were already familiar with the method of assessing bank shares would be familiar with this system of assessing moneyed capital.

Thirdly, as to what were their duties and how this legislation is to be enforced. The assessors were required upon examination of these provisions of the tax law to prepare an assessment roll or to place upon their assessment roll not only assessments of bank shares but also these new assessments of moneyed capital.

In the first place they found that the dates would be the same on which they were to receive reports. Now, this year, when this law went into effect on June first, providing for



reports to be made with respect to new assessments, the difficulty was that reports were not submitted in many instances; but of course the assessors recognized that whether reports are made or not, it is still their duty to make assessments. If they can be assisted by reports, all right; but they must nevertheless make the assessments. In New York city we notified owners and holders of moneyed capital to make such reports, all those we could get track of, and we received the reports up to the very last days that we had to make up the roll,—on the first of August. When the reports were unsatisfactory, we notified them to give us more information as is called for under the tax law.

Secondly, we had to determine whom we were going to put on that assessment roll—what names we were going to put there. The law provided that corporations, owners of moneyed capital, should be assessed. It provided that associations should be assessed, and it provided that individuals should be assessed; and so that it was evident on our roll, we had to have the names of corporations of New York who had their headquarters in the tax district—the names of associations such as joint stock associations, also the names of individuals. In the beginning we recognized that this was intended to be a tax upon moneyed capital in the hands of individuals of the state; that it did not apply to non-residents. So far as local assessments were concerned, they were not to assess non-residents, which assessment was provided for in another provision of this act of chapter 897, which provided that the State Tax Commission, by section 191, should make assessments of foreign bankers and investors, corporations, associations and partnerships, which included non-residents, and non-resident individuals. Those did not go on our roll, nor the partnerships, and of course also those who were taxable under section 191 would not be taxable locally.

The law provided that owners or holders of moneyed capital should be assessed, and so we recognized, as stated in the law, that by holders it meant those who held as agents or trustees or guardians or executors, a phrase which has been in our tax law for a long time. They might be assessed, and we had to have the names of these different persons and corporations and their addresses; and in that respect the law stated that the address should be, and we should assess these persons in the tax district where they resided, or if they were engaged in business, in the place they conducted business; and finally, the important thing—what amount we were going to put down and what we were to determine was to be taxed.

Now, right there is where many of our questions have arisen, and it seems that they must necessarily be approached in the light of the decisions which had been rendered with respect to this very phrase "moneyed capital." The assessors are to ask themselves "what is moneyed capital." You can recognize at once it is not going to be capital of a manufacturing corporation, capital which takes the form of merchandise and commodities, nor of a transportation corporation such as boats and cars, nor of a mercantile corporation. But the courts have said this moneyed capital exists where the enterprise of the corporation, association, partnership or individual in which capital is employed is money, where the object of the enterprise is making by its use as money. Now, when you find a corporation, association or an individual who has capital, and that capital is money, or money which is in the form of an obligation such as a note, a bond or evidence of indebtedness which is payable in money, so that the entire enterprise is put into the form of obligations for the payment of money, which are converted again into money and reinvested—there you have a case, evidently, where you do have moneyed capital.



Now, in this connection, we must consider the decisions of the court about which I do not want to go much in detail as we haven't time—but in one case there is such a simple and complete statement, it seems to me might be useful, and I will mention this case of *Mercantile Bank vs. New York*, 121 U. S. 138 because it has been regarded for many years as a fundamental case. It arose in New York and the United States Supreme Court said: "The main purpose, therefore, of Congress, in fixing limits to state taxation on investment in the shares of national banks, was to render it impossible for the state in levying such a tax, to create and foster an unequal and unfriendly competition by favoring institutions or individuals carrying on a similar business and operations and investments of a like character. The language of the act of Congress is to be read in the light of this policy."

And then taking up the subject of moneyed capital, it said: "The moneyed capital thus employed is invested for that purpose in securities by way of loan, discount or otherwise, which are from time to time, according to the rules of the business, reduced again to money and reinvested. It includes money in the hands of individuals employed in a similar way, invested in loans, or in securities for the payment of money, either as an investment of a permanent character, or temporarily with a view to sale or repayment and reinvestment. In this way the moneyed capital in the hands of individuals is distinguished from what is known generally as personal property."

In other words, we are to look at what is being done with this moneyed capital. The operations, the investments, are they of a similar character? Is any business being conducted which is similar to business being conducted by banks? It would not necessarily mean that the business must in all respects be the same as that of banks; that is, that they would do all the things, but whether they do some

of them, keeping in mind always the idea that where moneyed capital was employed or used in the way as banks would use it. It seems to me one test would be this:

Supposing that we find that instead of going to a banker, individuals go to some corporation or some association or some individual and obtain loans; and that individual or corporation or association has an amount of moneyed capital and is doing that all the time. That would be a case where there is moneyed capital and employed in the same way that banks employ their moneyed capital.

Now, in connection with consideration of this term "moneyed capital," you will note when you examine the tax law that the words are used, as I said, in the same phraseology of the federal statute, which contains this very important provision. The federal statute, and our state law, say that we can assess bank shares, and we can assess moneyed capital coming into competition with the business of national banks. Our original statutes did not say "in competition with national banks;" it said "moneyed capital;" but the courts construed that to mean moneyed capital doing the same sort of thing, and Congress put these words into the phraseology of this section, and then they said this:

"Provided that bonds, notes or other evidence of indebtedness in the hands of individual citizens not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with such business, shall not be deemed moneyed capital within the meaning of this section."

So that same proviso is in our state law. Now, regarding that proviso, light is thrown upon it by the circumstances prior to its enactment. We had had decisions of the courts to the effect that personal loans between individuals in the form of an ordinary note was moneyed capital, and came in competition with banks, because in the loaning market. That decision created much surprise throughout the United States,



and as it affected the assessments of national bank shares with respect to all states where such notes, etc., had been taxed, either at a lower rate or an income tax rate, it was deemed that this thing should be changed; and apparently in recognition of that, Congress inserted those words.

Now, it has been pointed out before the Legislature that those words are not entirely clear—somewhat ambiguous. It would have been better if Congress had given us a better definition; but we often have to work under the terms of the statutes which are not as clear as can be desired, and to give the best sense and judgment to them that we can in the light of what has been decided with respect to those questions as to which there is uncertainty, and they manage to find their way into the courts until the statute is clarified.

Now, I want to call your attention to one or two other phrases of the state law, because questions have arisen and no doubt will arise in these different tax districts.

The provision of this law, the whole idea of it, was that this moneyed capital which is to be assessed, this moneyed capital, as they say, in competition with banks or engaged in enterprises similar, is to be assessed at its actual value. Now, it further says “without deduction for personal indebtedness.” In other words, the general debts which a person owes are not to be deducted from assessments of moneyed capital, any more than they would be in the making of an assessment on a piece of real estate. You assess in each case at actual value. That was the way the bill was originally introduced, and on the hearings several objections were made. “Well, now, does that mean that if you owe some money for moneyed capital you have, that can be deducted?” and it seemed the answer was perfectly clear, “yes.” If a man has a bond of \$10,000 and has borrowed \$2,000 to pay for it, he actually owns \$8,000 and to be clear on the question it was stated explicitly in the law that

indebtedness in the acquisition of moneyed capital should be taken out.

Also the question was raised as to whether, if a person who in his position as pledgee has some securities that belong to someone else, he should be taxed on that or not. It seemed perfectly apparent, of course, that he should not, because they were not his, but lest some question arise, it was also placed in the statute that those things that he did not own were not to be assessed. Those items, then, should be excluded in making an assessment.

If a man has this moneyed capital and it does include things which under our laws are exempt from taxation, shall they be assessed? For instance, the United States government bonds or bonds of the state of New York or municipalities of this state are expressly exempt; and the courts have held that in interpreting a statute you must consider that when you so tax at actual value, it means the actual value of that which is taxable, and therefore those should be excluded.

In connection with that, another subject arises, where we find that a corporation, association or individual in its moneyed capital does have some of these exempt bonds and claims certain indebtedness. It seems perfectly clear that if you are not going to assess those non-taxable bonds, you must not allow as deductions against his other moneyed capital which is taxable, a debt which he owes on account of those bonds, and yet questions have arisen with respect to that.

We should keep in mind, it seems to me, by application of good common sense, that we are trying always to get at the actual value of this taxable moneyed capital which is in competition with national banks.

Also, questions have arisen with respect to the particular form of this moneyed capital. I do not want to go too much into that because I would be going into questions now in



litigation. If it happens that at the particular time of assessment someone was engaged in this very business of moneyed capital, and that moneyed capital happens to be cash, is it to be included? The answer seems perfectly clear. And if he happens to have it in a bank, it seems clear to me that it should be. It is in the bank today and to-morrow will be in securities. It seems to me that the important thing is to regard that you are assessing not a particular thing, like a bond or note or cash, but the amount of moneyed capital that the individual or corporation has on a particular day, and our policy has been in the city of New York that if we feel that there is moneyed capital, we have assessed it and given opportunity for them to question it, and if we think there is still any question about it, to leave that for the court to determine.

One other provision of the statute, I think, is important for you to bear in mind. When you go back and look over the assessment rolls and conclude that there is some corporation that has this moneyed capital, and you did not assess it, you should remember sections 34 and 56 under which where you have omitted property one year you can put it on the rolls for the following year.

Now, in conclusion, I would say just a few words as to what seems to me the merits and demerits of this particular law. It is a brand new thing; it is a matter of making up a new assessment, and it is natural that in your first assessment roll you would assess some people you ought not to assess and will not have assessed someone you should have assessed. In all new laws we have these questions of interpretation. We had it with the special franchise tax law—the question of constitutionality and as to different items, whether entitled to deductions and depreciation and renewals and net earnings and allowances for return. It has gradually been decided and straightened out, and we are going on now with the special franchise tax law that we know pretty well

about. These questions should not disturb us so much. It is a law which gives to localities a source of revenue which is very much needed. We need the bank tax and the moneyed capital tax. As you know, locally the only other thing we have assessable substantially is our real estate. The income tax is adding something for revenue. We have to raise a certain amount of money for government, and if we do not get it from other sources, we have to get it from real estate, and there is the importance of this new law. We have another source of revenue. The old source of revenue, the bank tax, we have always had and which the cities need, and which is covered by this new law, and then this new moneyed capital tax.

Now, in this respect, when the question came of what were the cities to do in making all these refunds of bank taxes, although the litigation was settled on a fifty per cent basis, there was a deficit. We could not turn to real estate, already overburdened, and naturally we turned to the very things which the courts held were illegally assessed or were not bearing an equal burden of taxation—these two things, the bank tax and this moneyed capital tax.

And so I do wish to say that I realize very deeply the responsibility which is upon the assessors to see to it that this tax is carried out upon the assessment rolls; that this source of revenue will do what it was intended to do, namely, in time to make up the revenue which we lost and which we need. In that respect, the bill, when first introduced, proposed to assess bank shares at two per cent instead of one per cent and also moneyed capital; and the objection was made that that was going too far. It was pointed out that the trust companies would have to pay two per cent and had not escaped, and so they made it one per cent. Now, we want to get something additional, and we not only need it, but it is our duty to other taxpayers and to the state and to our own locality, as it seems to me, impartially and



vigorously to endeavor to sustain and enforce this provision for taxing moneyed capital.

MR. ISAAC P. VANCE, Norwood, St. Lawrence county: What we have had in the last twenty minutes has done me more good than anything I have heard in a long time. I want to express my thanks.

CHAIRMAN GILCHRIST : The next speaker will be Mr. Michael F. Dee, formerly dean of Fordham Law School, who will address the conference on the moneyed capital question. It seems desirable that we defer discussion on this subject pending the conclusion of Mr. Dee's address. Gentlemen, Mr. Dee.

## TAXATION OF MONEYED CAPITAL

MICHAEL F. DEE

*Attorney, New York City*

It is not the purpose either of Mr. King or myself to discuss this subject from the standpoint of debate or opposition to each other. It is merely that he presents it from the standpoint of the taxing authority, and **my part is to** speak on the part of the taxpayer,—the man against whom this moneyed capital tax is to be assessed and collected. He has, of course, given you, and in a most convincing way, the history and development of this taxing legislation, and I do not intend to cover the ground that he has so well gone over. I merely want to emphasize one or two of the points that he may have overlooked or may not have sufficiently emphasized.

This is essentially a local tax matter. It is no concern whatever of the state as to assessment, collection or distribution.

The nature of this tax is a little peculiar. I do not for the moment speak of the body of taxable property. The tax is at one per cent on the value of a certain body of intangible personal property. What that body is, I hope to take up in a minute. This one per cent value tax is the only tax on the property in question, for all purposes; income earned by such property, large or small, pays no tax; on the other hand, the property pays this tax whether it earns any income or not. Another peculiarity of the new law is this: that this property that I hope to describe or illustrate,—this body of intangible property, is for the purposes of this law regarded as a **thing apart from all the other**



property of the taxpayer. If you find that he owns this particular class of property, you tax it, and you tax it one per cent, even though the man may be absolutely insolvent in his other business affairs. I want it to be understood that I do not mention this in a critical sense, but merely to bring out the character of the tax.

It is important for the local assessors to discover and tax this body of property because insofar as it yields returns to the locality it will tend, of course, to a diminution of the general tax on property,—real property and tangibles, stock in trade, et cetera.

On the other hand, where it does yield a good return, it will take away from the state the income tax that heretofore has been earned by that body of property, because, paying this one tax, it pays no other, and that is true whether a corporation or partnership or association owns this property. The test of the tax is not at all dependent on who owns the property. The test is the character of the property and how it is employed. The administrative machinery is, I assume, quite familiar to all of you.

I suppose in every tax district there is a bank,—national or state,—and the taxation of its shares is, I suppose, a matter familiar to everybody. There is, or should be, an annual report by the taxpayer on or before June first as to what he owned on May first; then the assessor notices all assessments and gives opportunity for correction and opportunity to litigate, and lastly comes the payment before January first. All those things are followed out to the very letter in this new tax law. That leads to at least one peculiarity; in the bank tax, the value of the shares is fixed as of May first. In making this law just like the bank tax law, the very same provision was made. The value of a man's intangible personal property is by law fixed as of May first, as that date, and no other, is the date when its taxable character and its value must be determined.

How does the machinery for this taxation get into operation? By the way, the law was passed only June first, 1923, and if the law was to operate in 1923 the taxpayer's report should have been in your hands on the very day the law was passed, which was impossible; but hereafter, as long as this law is in force, the taxpayer on or before June first of every year must furnish to you, the assessor, a statement of the details of this body of property, showing its value, its items, why he regards it as falling within this body of taxable property, or why not; and he is subject to heavy penalties if he does not furnish such report; but of course his failure to report is in no sense the end of his liability. Even without a report, you go about doing the best you can; but although the report is his concern, you also must pass on it, and so it is important for you to consider now and understand what should be in the report, so that you and the taxpayer may agree, as far as possible. If his report is not satisfactory to you, you are not bound by it. You may ask for more information, and may depend on information not in the report. All this is subject to court review.

We come, then, to this final question, which is probably the acid test of the value of this law: what is it that the taxpayer should include, or that you should require him to include or should yourself search for as taxable under this new law? Mr. King said pleasant words about the law, and no one wants to say unpleasant words about it; but I must direct your attention to the words used by the Legislature to guide you as to what it is that you must look for and assess in the hands of the citizens of the state. Here are the words that tell you what to look for: "Moneyed capital coming into competition with the business of national banks \* \* \* except bonds, notes, or other evidences of indebtedness in the hands of individual citizens not employed or engaged in the banking or investment business and representing merely personal investments not made in competition



with such business." I am reading section 25 of the Tax Law to avoid any error in my statement. These are the words that tell the assessors what they must pick out for taxation, and what they must except from the taxable body of moneyed capital. These are the words that guide the taxpayer as to what he must pick out for taxation and for exception, when making his return. The thing, of course, on its face is phrased rather contrarily,—phrased in such a way that it will require a good deal of care to come to a decision fair to the taxpayer as well as to the public. It may help us to understand if I suggest one or two examples of what we think taxable, and what not. It must be remembered that the subject matter that I am now attempting to go into, and these examples, are not to be taken as finally settled; they are open to dispute, and Mr. King might say "yes" where I say "no." These matters are in litigation and must soon be settled; but I hope to keep on ground pretty well agreed to by all of us.

First, is this new moneyed capital which is taxable on the one per cent rate, in a rough sense confined to banking money? Is that what it means? It does not mean simply that, but a great deal more. Does it apply, roughly speaking, to only the greater cities of the state? No, it applies to all of the state,—to the smaller communities as much as to the cities and financial centers. Suppose a man in one of the smaller towns owns some school bonds or some village bonds. Is that moneyed capital? Yes, plain as day, in the sense of this statute. Must he pay a tax? Probably not; and the reason is because these are bonds issued by a public body and ought to be tax free. But there is a private lighting company or water company, and he has bought some of their bonds. Are these bonds within this new tax? There seems to be no doubt whatever that they are, unless possibly they are deemed to be covered by the exception that they are merely a private investment, and not in any

fair sense in competition with national banking. A man may be engaged in a banking activity, even if he sits home and reads his paper, and if his capital acts in a way that comes into the same lines of activity that national bank money does, he ought to pay this tax.

Take the good old gentleman known at least in past years, in all the small towns of the east, who sat in his own little office and doled out a few dollars to A and B and C on what he thought pretty good security,—notes secured by chattel mortgages, or with the names of respected citizens on the back. Suppose that one of our town neighbors had \$50,000 that he uses in this way. I have no doubt that is money capital, taxable by this new law. Suppose he had that same money in the middle of April and he was wise enough to call it all in and deposit it in bank just before May first, and his report shows that such is the situation. In other words, on May 1st he has a bank deposit. Is that \$50,000 still moneyed capital and taxable? Well, if it is in a national bank it does not seem to be competing with national banking business, and if it is in a state bank or trust company and can be found there, it seems to be in competition still with the business of a national bank, and ought to be taxed. Suppose he makes private loans, somewhat the same as the money lender but **not quite as frequently**. If I were a taxpayer I would argue that that was not in any sense moneyed capital, competing with national banks. If I were a tax assessor, I would put it down for what it is worth and let the taxpayer do what he could to get that item in the list of exemptions.

These are a very few of endless instances. You will find other troublesome cases in the bigger industrial activities, especially corporate and manufacturing companies. It may be that some of their money is for the time being outside their industrial activity and invested. Then your great concern is to answer the question, is that money so invested that



in a fair sense it competes with national banking? And in all cases we must remember that the law fixes May 1st as the day that tests the activity.

I think, as I look at the clock and the patient faces of the gentlemen who have listened to this dry, wholly inhuman talk of mine, that I ought, in all decency, to stop. I do want to emphasize this one point, not in an argumentative way, but as a matter of plain statement. There is this great point of difficulty in the present tax,—the determining of what is taxable. And the administrative questions seem to be almost endless; and these administrative decisions seem to be too difficult, almost, for a judge of the Court of Appeals; but it may be that it will work. It may be that it can be amended; but it does seem that under present circumstances the determination of the taxable body under that law is still a matter very much in the air.

CHAIRMAN GILCHRIST: I am going to ask a very old friend of mine to address you for a few minutes. He has rendered distinguished service to the state of New York, as a state senator, as chairman of the committee on taxation in the 1915 constitutional convention, and as president of the State Tax Commission,—the Honorable Martin Saxe.

MR. SAXE: *Mr. President, and gentlemen of the conference.*—I am particularly pleased at this opportunity, afforded by the courtesy of President Gilchrist, to say a word to you at this time. I have a rather fatherly interest in these conferences, because when I was president of the State Tax Commission, under Governor Whitman, I had the honor of inaugurating the first state convention of assessors ever held in New York; and as I recall it, we had a wonderful gathering. Not alone the body of the room was filled, but the galleries were also crowded.

Of course to-night I understand we have a little competition. Over across the street, in the capitol, they are dis-

cussing prohibition; but when it comes to a "dry" subject, I think we ought to have the cards.

One of the most interesting and instructive features of these conferences is the question box. I understand that those in attendance here have taken advantage of that opportunity, and have filled the question box to overflowing. I want to say that after the discussion on moneyed capital tax is had, that you can bring in a gas tank, and you will not have a question box half big enough. The questions that will be put from the floor to my esteemed friends, Mr. King and Mr. Dee, will be most interesting for me to hear, and I know that you will find them both interesting, instructive and even entertaining.

I want to know something about this moneyed capital tax, because I shortly expect to have the honor to litigate some questions under that law with my friend, Mr. King, and this is the place to get some information; and when we get into that discussion, I am going to take the opportunity of participating in it, because I have a few questions that I think may prove of interest. One of them is like the question put to the high school boy as to who was Abraham Lincoln. The boy said, "Well, he was a young man born in a log cabin that he helped his father to build."

CHAIRMAN GILCHRIST: We are now ready for discussion of the papers read. Does any one desire to ask any questions?

MR. VANCE: This one thing I want and I think every assessor will want it: Your Honor, we will want this law published, so we can paste it in the back of our assessment books, and when a man asks about it, we shall have something to go by. We used to have in the town of Potsdam paper for half a million personal property tax, and it has dwindled to less than \$17,000. Now, we want to know whether a chattel mortgage that has been filed, whether that is moneyed capital or not—individual notes—set all right out there in plain letters.



MR. KING: I should say in both the individual cases you mention, they certainly would not be. You must consider whether capital is invested and reinvested as a bank. We have a provision at law for taxing mortgages, and we must take into consideration various provisions of the tax law. Putting this in the form of something you can paste in your books, you would have to pick out nearly all, or a great many, of the sections of the tax law, just as you could not put in your book—a copy of the law which related to the assessment of personal property. Don't think that the law passed last year is a complete scheme for taxing moneyed capital or bank shares. As I tried to state, it added some new sections, it amended some others, and these additions and amendments with unamended sections make a complete scheme. There is nothing in this new law about giving hearing and opportunity to be heard, and you have to turn to the old law to find out about those things. There has been an attempt to state the law in the form of pamphlets—there have been copies of this act, but if you took this pamphlet and did not remember, did not bear in mind, the other parts of the tax law, you would not have enough.

MR. VANCE: It is an easier means for a man who wants to hide his property. I have a neighbor worth \$350,000 and he is not paying as much tax as I am. I would take the interest on what he has for all I own. He goes to Florida winters, and I go around town doing assessing, riding a bicycle. I would like to see these men with the money helping to pay the taxes. I want to tell a man the law is so and so, if it is, and I will not have to take it back. This year we paid something like \$3,000 or \$4,000 of bank taxes. We have got to make it up somewhere else. Our tax on real estate is  $4\frac{1}{2}$  per cent. It is burdensome for the taxpayer, and some men that have got \$200 in a house and lot are paying taxes on \$2,000 and they only really own the \$200 equity. The rest goes scot free, and some are

simply on contracts liable to be wiped out to-morrow. Let every man pay what he ought to, and we shall all be satisfied.

MR. PHILIP HILL, of Niagara: I would like to ask Mr. King about a savings and loan association. They have two or three different forms of shares; one, for instance, is a settlement share where the people pay in a certain amount a week, and it matures in a certain number of years. Another is an investment where they pay \$100 a share. Is either one subject to assessment by the local assessor? I understand that a savings and loan association is controlled or governed by the state banking laws. But how about the taxation?

MR. KING: In connection with that question, it is at the present time in litigation, and the case is about to be tried. What amount, if any, does it have which is moneyed capital? As I say, there are a number of questions which have arisen, and our assessors have thought they would put them in the assessment; and now we are about to have the court's determination with respect to it. I could only give you a personal viewpoint on that. In respect to savings banks, there is a particular provision for taxing those, and the courts recognize that where special provisions are made, either for taxing or exemption, they apply. We would not include savings banks nor insurance companies, and they have their own special method of assessment, and it is proper and legal to make these distinctions. This other property, which has thus been taxed, we do not want, and the only way to arrive at a conclusion is to consider whether it is taxable moneyed capital and whether they are carrying on an enterprise by changing the moneyed capital from one form to another, which is the same kind of thing that banks would do.

Question: I want to say to you—there are bank stocks assessed for \$150 a share, and the banks real property is assessed for full value. Isn't that a double assessment?



MR. KING: That may be. There is nothing bad about a double assessment. We assess shares of banks under our tax law, upon the basis of a report made by the bank of capital, surplus and undivided profits. That is divided by the number of shares, which gives the taxable value per share, and makes the assessment against each shareholder by multiplying by the number of shares that he holds. We also levy a tax on the real estate of the bank, which is included in its capital. We have the same system with respect to a piece of real property owned by a corporation, and that corporation is called upon to pay a tax to the state on its income, and the building and all other real property also pays a tax. So, whether you have it as double taxation or not, it is in accordance with other forms of taxation we have, and would be perfectly proper and legal.

MR. RUMSEY, of Tioga: Did I understand Mr. King to say that the stock of mercantile firms was not assessable?

MR. KING: No, I did not say that. I said that there was a distinction between moneyed capital and the capital of manufacturing and mercantile corporations. If you are assessing manufacturing and mercantile corporations, they are assessable by the state under article 9-A. If you are assessing moneyed capital, it is assessed locally.

MR. RUMSEY: It is stated here that money was put out on those loans and then was called before the time that this assessment was made, and placed in the bank—and was also assessable. How are you to discover that that money was in the bank, and how much there was?

MR. KING: You were called upon, in your different tax districts to find out, to the best of your ability, what persons are engaged in making these loans or advancing moneys. That is what we did in New York. We did not have the advantage of reports. In a case like that Mr. Dee raised, that, to my mind, would be entirely immaterial; if a man is in business loaning money to different individuals, and

that is what he is doing; he happens to have that money in a bank on the taxable status day, that is moneyed capital. It happens to be there today and it will be in the form of a loan tomorrow. It is still moneyed capital, and he is using it in the same way that the banks are using their money.

MR. RUMSEY: How about the merchant with \$10,000 worth of goods on a shelf?

MR. KING: That is certainly not moneyed capital. We are not attempting to assess it. It can only be that form of capital which is money, or else an obligation for the payment of money, which is reduced to money again and re-invested.

MR. HILL: I have discovered these lenders, when they have to pay this extra tax, it comes out of the poor borrower. They put it in somewhere.

CHAIRMAN GILCHRIST: Are there further questions?

MR. WORTH, of Orleans: A good many years ago I was in school, and they set me to study Greek. We would learn a rule, and then find there were forty exceptions. We shall have to learn this law, and then all these exceptions. How are we to differentiate, where it works and where it don't work, works me all up!

MR. KING: You are an assessor in your city, and you are acquainted with the people who are there. You can make inquiries about what business they do. You ought to know, if it is a small town, who is the man to go to. If you have nobody there that makes any investments of money which he turns over and over as capital—if you have no such man or corporation or association as that, there is no assessment to be made. If there is an institution there that is advancing moneys in the way a bank does it, and that is its business, it is to be assessed. I used to live in a small town and in the small towns we generally knew something about everybody in the town and what he was making his money out of; and if there is a man who loans money, we



know it and who he is, and we have to consider, has he an investment that he is turning over and over and has capital and making a profit. He should be assessed.

MR. WORTH: I know there are men who have bought bonds from some firms, who would be subject to tax.

MR. KING: If people in your town are buying the kind of bonds of banks, that is part of their business, and they have a certain amount of moneyed capital. As to others, you have their books and we deem that they have this moneyed capital.

MR. WORTH: Are these men supposed to report to the board of assessors?

MR. KING: Yes; they are supposed to report.

MR. WORTH: And if they don't what then?

MR. KING: They make themselves liable to a penalty, which next year they may hear from. This year the penalty was not enforced, because they could not make the reports before June first, as I explained before. Next year they will be called upon, and every individual citizen of a community ought to know whether he has moneyed capital, is making loans and investments and has a certain amount set aside; and he should have it borne in on his conscience that he must report or make himself liable to a penalty. If he puts in a report that you are not satisfied with, ask him questions about it. If you do not get satisfactory answers and you find out from other sources, then put him on the roll, give notice and opportunity to be heard, as the law provides, and you may ask him all the questions you can think of; and if he is fair and honest, it ought to be developed whether he has moneyed capital.

MR. WORTH: What if the bank don't report, and you have to send to the bank, and send once or twice?

MR. KING: The bank is not likely to make that mistake. Then there is one other mistake that might be made, that

the assessor should go after the bank, because they are under a heavy penalty for not doing it; and just quote section 23 of the tax law, and that bank is not liable to get itself into a position where its stockholders and officers are in trouble for not obeying the law. The banks are officers for the holders of stocks, and the penalties are on them. I do not know of any instance in the city of New York. We have no certiorari proceedings, and every bank has paid its taxes.

MR. WORTH: We have had to go the last thing and go to the bank and insist on having it.

MR. KING: I never heard of such a thing as that, but if you send down a notice of the penalties and set in process the penalties, I think they would soon answer.

CHAIRMAN GILCHRIST: I hope we may now hear from Senator Saxe, the man who was attorney in the Hanover bank case.

MR. SAXE: *Mr. President, and gentlemen of the conference.*—Mr. Gilchrist has explained to you that I was the counsel in the Hanover bank case, which voided the recent bank taxes in this state; but I am not going to discuss the moneyed capital tax from the standpoint of an attorney to-night. Counsel opposing me in pending litigation on that subject is here, and I might be at great disadvantage if I got into a legal argument. But I do want to say a word from my experience as a tax official. The gentleman down below who said that our tax law ought to be so plain that you can paste it on the back of the book is right! That is the kind of a tax law we ought to have! We ought to have tax laws which taxpayers and tax officials can both understand! The trouble with this proposition is very simple. Remember, in the first instance, the states have no right to tax national banks, because they are federal agencies. They are creatures of the federal government, so the states have no right to tax them; but Congress said: “You



may tax the shares of these banks just as you tax other moneyed capital in the hands of individuals in your state." The idea was to protect the shareholders of the national banks from being taxed at any more than other citizens having similar investments. The policy of Congress was to protect the stockholders of national banks, so that they would not be discriminated against in the event they put their money in that kind of security, rather than in some other sort of security.

Now, when questions arose in different parts of the country, over the taxation of national bank stock and other kinds of intangible property similar to bank stock, the United States Supreme Court began to narrow down that definition of "other moneyed capital in the hands of individuals," and said that it meant "other moneyed capital coming into competition with the business of national banks." Then, when the matter came up in Congress last year, Congress wrote into the statute that interpretation of the United States Supreme Court, and said to the states: "You can go on taxing these shares, provided you do not tax them at a higher rate than other moneyed capital which is in competition is taxed." Congress has no power to lay down tax laws for the states. Congress was merely laying down a rule of guidance to the states, saying, "If you are going to tax national bank stocks, you must tax them at no higher rate than you tax other moneyed capital in competition." They did not say anything about corporations. They just wanted to protect the national banks by laying down a general rule.

Now, the state legislature, instead of clearly describing what was intended should be assessed as other moneyed capital in competition with the banks, simply used the phraseology that was in the federal statute. To illustrate:

Look at section 4 of the tax law, which contains the general exemptions from taxation. You can see at a glance

what property is not taxable, because it is plainly detailed there. You can paste that section in the back of your assessment book and turn to it, and you will have no trouble when you come to assess property, to know whether it is exempt or not. In the same way what they should have done in the state of New York was to classify the **moneyed capital** which they say is in competition with the banks. Someone knows what it is. Someone could have advised the legislature and they could have expressed it in so many words. They could have stated the very items that make up moneyed capital in competition with the banks. But they were afraid. Someone might escape; so they used the very easy road by adopting the words in the federal statute. They said, "that law has been construed by the United States Supreme Court; when we get into court we will just give them the decisions of the United States Supreme Court, and will hold." Assessors are not supposed to know all the tax decisions of the Supreme Court, because very few lawyers know very much about them. They have to make special studies in special cases. So the vice of this law is that it is not so plain that he who runs may read. If they had done that, there would be no trouble about it. There should be a provision in the constitution to the effect that every revenue law must be so plain and definite that the taxpayer as well as the assessor can know what it means, without any question. (Applause.)

And right there, gentlemen, I have lead up to that, because I want to sound a keynote that ought to be the policy of these conferences: Here you are, influential men from all parts of the state. You can act directly upon your legislative representatives, your senators and your assemblymen. Bear down on them the idea that tax laws ought to be made so plain that the man who pays the taxes and the man who is to assess them should have no differences with respect to their application in individual cases. If you will do that,—



keep after your representatives in the legislature,—and insist on tax laws that are clear and plain, you will get good results. Just think of legislating that if you have moneyed capital in competition, you have got to make a report, otherwise you will be penalized—and the penalty up to a short time ago was \$100 a day, if you did not make the report!

It takes a pretty good lawyer, I maintain, to determine what is moneyed capital in competition with the banks, but if a man had any doubt about it and did not make any report because it would be natural to resolve the doubt in his own favor, he was liable to a penalty of \$100 a day. That is not the kind of penalty we should have in the case of mysterious trying statutes. Have a reasonable penalty, of course, but have the statute so plain that there is no excuse for not knowing what it means. If you had a listing system with respect to personal property,—if a man had to list his pigs and cows and horses—there would not be any trouble about understanding it on the part of the assessor or taxpayer; and so, if you have a moneyed capital tax, then at least have the statute define what is moneyed capital in competition with banks, and have it put down, word for word, so that you gentlemen who have to assess it will know just what it is all about.

Now, there is something for you to work for! (Applause.)

CHAIRMAN GILCHRIST: The next speaker is Doctor Frank B. Gilbert, Deputy Commissioner of Education. He has been connected with the Department of Education since 1906, as State Law Librarian, and in other capacities, acting for a time as President of the University and Commissioner of Education. Doctor Gilbert.

## SCHOOL TAXATION IN RURAL COMMUNITIES

FRANK B. GILBERT

*Deputy State Commissioner of Education*

This is a pretty late hour to start anything on the school question. It is not at all difficult at this time to arouse interest in the rural school problem. You have heard about it in your own communities. You know what we are thinking of here, and you know what the legislature has been asked to do. Some of you think they ought not to do what has been suggested. I have no doubt about that, because I have heard indications of that fact. I do not want to get too far into the matter; but I think I know what you are concerned with, and as I understand it, this conference is for the consideration of and application of the law as it is, as well as a consideration of what some may think the law ought to be.

Now all school officers, as you know, in determining the question of how much money is to be raised and what the tax rate is to be in order to raise that tax, are dependent absolutely upon the assessments made on real property by town and city assessors. It is a fact which the figures will sustain that of the \$160,000,000 and some odd million that are to be expended every year for the support of education, at least two-thirds is raised as the result of a direct tax upon taxable real property. We do apportion \$40,000,000 every year from the state to the several school districts and cities of the state. Of that \$40,000,000 all but about something less than \$1,000,000 is raised by indirect; but except as to that \$30,000,000 or so the entire balance is a tax upon the taxpayers' real property.



Now, much has been done in the years gone by. I have been in attendance at conferences like this for a great many years, and I have heard the discussions that have been had as to the removal of the direct tax and the substitution of an indirect tax. The taxation of personal property rather than the taxation of real property; but when you come to think of the great amount of money that is being spent for the schools, it must be taken as granted, notwithstanding all the changes that have been made that that burden is a burden upon the man's farm, upon the man's home and upon the real property that he owns. And when you commence to talk about the tax on moneyed capital, the bank tax or income tax that is paid because of personal income, we who are responsible for the support of education in this state can say that none of that is for us. We must look, as we always have in the past, to substantial real property for the tax that we are to get for the support of public education.

And that brings us, naturally, to the question of "how are you to distribute this tax?" Those of us who have been interested in education have noted in the years gone by how gradually the state has taken upon itself the support of public schools. In the constitution of 1894, for the first time, it was said that the legislature shall provide for a system of free common schools, in which all the children of the state shall receive the benefit of a common school education. From that time on the schools of our state, whether in a city or in a school district, have been part and parcel of a state system of public education. Now, if it is a state system, and if it is to be supported by a state tax, we may well say that that tax should be uniform and that the burden of that tax should be spread alike upon all the communities of the state. We can also well say that as a result of that tax, all the children of all the people of the state, wherever they may be, shall receive equal benefit and opportunity from this system that has been

provided for them. So there is no justice, there is no equity and there is no public decency in providing for the children of your cities and your villages and your wealthy communities what the children upon the farms, in remote localities, and where the financial resources are limited, shall not also obtain. There is no logical basis upon which you may sustain the support of public schools as a state system unless provision is made for equal opportunity and a uniform levy of the burden upon all the people alike.

The only way to do that and to do it completely is to eliminate all your school districts, all your city boundaries so far as your schools are concerned, and say that from now on all the schools shall be supported by a state tax which will be levied upon all property alike throughout the entire state.

That is the extremity. That is the thing that you might like logically; but it is a thing that nobody is insisting upon. It is a thing that no one who has studied education and educational methods would demand. The principal reason for it is that if you take from the locality the responsibility for the support of the public schools, you take from the locality in a large measure its interest in the schools, and experience has shown that you will not have a school in a locality unless the people therein have a live interest in such school.

While no one demands or insists upon a state tax sufficient in amount to support all the public schools, I think we have the right to insist that in place of the ten thousand or more school districts in the state, each a separate taxing unit with a separate tax law, those units of taxation shall be extended, so that for the purpose of taxation at least there shall be something in the way of uniformity of the tax burden. If in the 935 towns you are to have 10,000 school districts, with 935 different methods of assessment and 10,000 different rates of taxation, how can you provide



for any reasonable method of levying a tax so that it will be equitable and fair and uniform in the distribution of the burden?

Now, I am not talking in favor of the old township system. I am not talking in favor of the present proposed community plan. I am merely saying that whatever plan is devised, nothing in the way of a fair solution of the tax problem, so far as it relates to the support of the public schools of villages and rural districts of the state, can be brought about unless, for taxation purposes, there is an extension of the unit.

I am going to stop right there as to that, and say that whatever remedy is proposed, whatever thing is done, it will only be accomplished through some method of extending the limits, the territorial limits, of the tax unit for school purposes. If that be done, then I think it would be feasible to devise some plan whereby you could finally bring about a uniform tax law.

The children of the state, wherever they are, each and every one, are entitled to, as near as may be, the equal opportunity of our tax law system. Wherever a child may be, that child should not be prevented from obtaining what belongs to him because of the inability of that locality to bear the burden of the tax. The state has required that this opportunity be given. Then let the state supplement the resources of that district by providing adequate means for the support of the public schools, necessary to give that child educational opportunity. It can be done. It cannot be done with the 10,000 school districts. It may be done with a lesser number, and it may be done under some plan that might be devised so that back to the districts that need it will go money from the state sufficient to enable them to provide for their children the school accommodations and privileges that they are entitled to receive. If you can make a standard of valuation of property back of each teacher,—

back of each child in attendance, maybe,—some standard so that as they go below it in assessed valuation there may be paid into that district a greater amount, so that there will be a supplement to what they are required to raise by taxation, the result will be, to some extent at least, a uniform tax for school purposes in all of these districts.

That is one feature of this community plan that I think should appeal to any sensible person, even if there are things about the bill he does not like. It provides for greatly increased state aid, to be apportioned to enlarged districts in accordance with the ability of the districts to provide for their children, and the obligations imposed upon such districts because of the number of children which they are required to educate, as indicated by the number of teachers employed.

I would like to call your attention to existing conditions that are not as they ought to be, even if you do not go into this proposition of equalizing the burden. Every dollar apportioned to the rural districts is apportioned according to the assessed valuation of the property in the respective districts. The town assessors are required to assess this property. The trustee of each school district and the board of education of each union free school district take the assessment as they find it on the town assessment roll, and from that they make up their tax list. That, in itself, would not be bad. You would not have any difficulty with that, because whether you assess at full value, as the law says, or not, would be immaterial as far as the determination of school taxes goes. But when it comes to the apportionment of public moneys, we say that to a district having an assessed valuation of less than \$100,000, we will give \$200 for the teacher employed, and in addition to that \$3 for every \$1,000 of assessed valuation less than \$100,000.

Now, what is the effect of this plan, if the town assessors in one town are assessing about one-third or two-thirds of



the actual value of the property in the town, while in another town they are assessing somewhere near full value? A town in Sullivan county is brought to my notice. A district contains a school with one teacher, with an assessed valuation of \$10,000. It obtains from public school moneys \$200, plus \$3 a thousand for every \$1,000 less than \$100,000. All told it receives \$470; and when you come to look at the rate of assessment as prepared by the State Tax Commission, you will find that in that particular town they are assessing *12 per cent* of full value. You can see what that tax district is getting. It is getting *just five times* as much as a similar district located in the county of Fulton where they have an assessed valuation of \$80,000, a one-teacher school costing exactly the same amount to support as this district in Sullivan county, and they only get \$200 plus \$3 from the state for every \$1,000 less than \$100,000. They get \$260 instead of \$470, where, farm for farm, house for house, parcel of property for parcel of property, the valuations are exactly the same in the two districts!

Now, that is a situation that ought not to exist. I wish somebody had nerve enough to go to the legislature and insist that that apportionment of public money be put upon a different basis. I do not know whether it is for the Education Department to do it, or whether it is for the State Tax Department to do. Someone ought to have nerve enough to go to the legislature and say that from now on we will apportion this money according to the actual valuation of the property that is assessed for school purposes in that district. That is one of the troubles with which we are confronted, and that leads to another difficulty. If the district is in two towns, the school officers prepare their tax lists from tax rolls based on different rates of equalization. In one of the towns they assess at the rate of 50 per cent of value, while in the other town the rate is 75 per cent of value. Immediately there comes a controversy between the taxpayers of

the different towns. The only way it can be adjusted without court action is by in some way leveling up the assessments in those two towns so they will be somewhere near alike. They have a method prescribed by the education law for equalizing that tax. But it has to be done all over again each year and you can never feel that your entire work is properly completed. All this difficulty could be avoided if we could make our taxation for school purposes upon the actual value, rather than the assessed value.

Now, the school system is a big thing. As I have said to you, there are 10,000 of these school districts and nine hundred and some odd union free school districts. Each one of these districts is a taxing unit, and for the purposes of taxation they are absolutely dependent on the assessments made by you town assessors.

Another thing that has been called to my attention frequently by town assessors and others interested in school matters is the question of the location of the particular farm or parcel of property for assessment and taxation for school purposes. As I understand the law, a board of assessors has no control over the district boundaries. That is all provided for either by the action of the district itself, or the action of the district superintendent, who can transfer property from one district to another, or say where a boundary line is between districts. Of course it would naturally aid the trustees of the several districts of the town if they could indicate in their books the location of the parcel of property to be assessed for school purposes, located by school districts. But where controversy arises as to whether a man's farm is in one school district or another school district, these questions are usually, under the law, to be disposed of by the district superintendent, subject to review by the Commissioner of Education.

I did not come to you to-night with any set subject, or any particular message. I am very glad of the opportunity



of talking these matters over with you, and if there are any of these tax questions that have a bearing upon school taxation that I can help you with, I would be very glad to do it.

CHAIRMAN GILCHRIST: Any discussion desired? Any questions to ask?

MR. HEZEKIAH BIGSBEE, of Rotterdam, Schenectady county: In school district 14, of Rotterdam, the question has been put before me as a school trustee, if assessors have made assessment on a piece of property officially, has the trustee a right to go ahead on his tax list and increase that valuation?

DOCTOR GILBERT: If the property at the time the assessment is made is unimproved and if after the town tax roll is completed and before the school tax list is made there is some change in the value, then the law would seem to permit assessors, on giving notice to the taxpayer, to make a new assessment; but only where there is some substantial change in the property, as, for instance, where a building is burned after the assessment is completed. They very often re-assess in such cases.

MR. BIGSBEE: But a new piece of property, if the assessors place a valuation, as on an unfinished house, has the trustee a right to increase that assessment?

DOCTOR GILBERT: I should say not.

MR. BIGSBEE: I have had that placed before me several times in the last couple of months, and I have been asked to find out if the assessor has a right to do it.

DOCTOR GILBERT: As a rule they would not do it; but in a particular case, where a house was completed after the town assessment roll was made and the school tax list was prepared, the trustees of the school district might increase the amount of the assessment by giving a notice as provided in the education law. In making such new assessment they would have to proceed in the same manner as town assessors proceed in assessing real property.

MR. RUMSEY: I attended the State Grange Association at Albany week before last, and had the honor of being placed on the rural school committee. We held something like 17 hours of hearings and listening to the debates and one thing and another on that bill; and we found some of the same problems that Doctor Gilbert brings up here,—and the resolutions brought in there,—perhaps you have all read them, or, if you care, I have them here. But I know that unit of taxation was one of the things that this committee brought in. They talked the matter over, and some felt that the whole state should be the unit of taxation, some that it should be the town and some thought that the county was right and others that the supervisory district, and others the town; but when the resolution was brought in, there was not any specified unit of taxation requested. I think that might be worked out and a bill presented some time in the future. Then the state aid could be adjusted, according to the number of teachers and valuations of property.

DOCTOR GILBERT: That is somewhat the same as the proposed community bill.

MR. RUMSEY: We were up against something that was not going to put the State Grange on record as against any constructive legislation or help for the schools in the future; but they all allowed that something should be done for the benefit of the rural schools, and for that reason the resolutions as we brought in,—perhaps you have read them and are acquainted with them,—went through the State Grange without any opposition, and I think most of those resolutions were embodied in the bill as written. They slipped through without debate.

CHAIRMAN GILCHRIST: I would like to impress on the members of the conference the importance of being here early to-morrow morning. Mr. Hannan will address you on recent tax legislation, and then from the number of questions found in the question box, I am sure that we shall all obtain some



very valuable, useful information from the answers thereto. The question box and the round-table discussion will be taken up immediately after Mr. Hannan's address to-morrow morning.

MR. FRANCIS N. WHITNEY: May I ask a question? You spoke of the community plan. I am interested to know whether it has been determined tentatively what size the unit will be.

DOCTOR GILBERT: Of course we seem to have arrived at no definite conclusion about that. The bill, with the proposed plan, is now before the legislature, and provides for a county commission to divide the county into community districts, and the idea seems to be, as expressed in the bill to build up the community district around a district which includes an academic department, so that it shall include that district and also a number of the surrounding districts, and they will together constitute, for the purposes of taxation, also for some purposes of administration, a school unit.

MR. WHITNEY: It would not be possible to make the county the unit?

DOCTOR GILBERT: Of course it is possible!

MR. WHITNEY: Could the legislature go that far?

DOCTOR GILBERT: Judging by what I know of the proposed community plan, I think there would be even greater opposition to the county plan, as we know it, according to the way it has been used in other states. If it is a county plan for the purpose of taxation and administration, with a county board and a county superintendent, I do not believe the people opposing the community plan would be in favor of any such thing as that. The possibility has been discussed of having a county unit for taxation, keeping the districts as they are for the purpose of administration, and then levying a county tax to supplement the state apportionment, and then apportioning the county tax through some

county office, among the single tax districts of the county. Such a modified county plan as that might receive approval.

MR. WHITNEY: I understand the bill now before the legislature is the result of the study of the special committee of twenty-one who worked on it two years, and of course they have adjusted the various schemes submitted, and this is the one put up to the legislature.

MR. GILBERT: Yes.

MR. WHITNEY: Thank you.

Question: What would be the plan in a small town, where there is no high school?

DOCTOR GILBERT: We have a number of towns like that, which would probably be established as community districts, without regard to the fact of there being no high school in them, because this plan provides for a contract between that and some other district where there is a high school, where they may be given high school instruction. It is not absolutely essential that there be a high school in every one of the districts.

Question: I would like to ask Doctor Gilbert whether he considers the community plan an improvement over the township system that was tried a few years ago?

DOCTOR GILBERT: Yes, I do; decidedly. I want to be emphatic on that. I think that the community plan is a decided improvement, for various reasons, the most important being one of which is that under the township plan you are confined by the town line; but under the community plan you can take in districts from two or more towns. Then you can **contract between** community districts to take care of academic instruction.

MR. HARRY THURSTON, Chestertown, Warren county: How are the assessors going to find the boundaries of the school district, when the district superintendent himself acknowledges that he does not know where some of them are? A lake is the practical boundary, as far as we have



been able to find, between two districts; but there is a little point on one side that originally was a part of a farm on the other side. A few years ago that was not worth ten cents. Now there are a number of little bungalows on it and they are rented to campers. If the boundary lines of that farm, that original farm, govern the boundary line of the district, with buildings on the west side; if the shore line of the lake is the divisional line which belongs on the east side,—I have tried to find out, and the district superintendent doesn't know.

DOCTOR GILBERT: Then it is up to him to locate it. It is his job. He should get all the information he can. The assessment rolls throughout all the years will be material evidence in determining that question. It is up to him to make an order declaring where that boundary line is, and any such questions troubling any of you should be brought to the attention of the district superintendent. The law says where there is a disputed boundary line, the district superintendent may determine the location of that line.

MR. A. C. FRANK, of Stony Point, Rockland county: In the event that there are one or two pieces of property which have been found not taxed by the board of assessors, have the trustees of the school the right to tax them?

DOCTOR GILBERT: Yes; the law expressly provides that the trustee may assess omitted property,—property omitted by mistake or for some other reason.

MR. FRANK: In the event that there is a clear deficiency in the amount, have they the right to correct it?

DOCTOR GILBERT: They cannot substitute their judgment for the judgment of the town assessors as to the value of the property.

CHAIRMAN GILCHRIST: The conference will stand adjourned until ten o'clock to-morrow morning.

Adjourned at 10:06 P. M.





## FOURTH SESSION

THURSDAY MORNING, FEBRUARY 21, 1924, 10 o'CLOCK

Review of Recent Tax Legislation in New York State

William E. Hannan, State Legislative Librarian, Albany  
Question Box and Round Table

Mark Graves, State Tax Commissioner

CHAIRMAN GILCHRIST: I desire to announce my profound regret that Mr. A. E. Holcomb, secretary-treasurer of the National Tax Association, who has attended every prior conference, has been unavoidably detained, by a severe attack of neuritis, and that the Honorable Henry M. Goldfogle, president of the New York City Department of Taxes and Assessments, had expected to be present, but sends a telegram that he was unavoidably detained, and to present his regrets because of his not being able to be with us.

The first subject for discussion on the program today is by Mr. William H. Hannan, of the State Legislative Library. His subject will be the review of recent tax legislation in New York State. In the short time allotted to Mr. Hannan he will be unable to do more than bring to your attention the most important statutes affecting taxation. His complete paper will be printed, and a copy will be sent to each person attending the conference, upon request for same.

MR. WILLIAM E. HANNAN: *Mr. Chairman, gentlemen of the conference.*—I wonder why I am here, because I assure you that I did not seek this job. It would take a very brave man to stand up in front of the experienced heads in the matter of taxation here this morning and attempt to tell them anything about the law that has been in operation for the last three or four years, but I am here under orders of the

State Tax Commission, and you gentlemen know what that means. When they send out an order, there is nothing to do but to obey, and these orders oftentimes reach into the very precincts of our state library, and bring us out and use us in the furtherance of their work. The matter, therefore, which I am to bring before you this morning, is history, and a certain distinguished gentleman, Mr. Henry Ford, says that history is "bunk," and you may agree with me that what I am presenting to you today is "bunk," before I get through, but it is something which has been put upon the statute books by your representatives, both senators and assemblymen.

In the last four years, as I am reviewing the legislation for the years 1920, 1921, 1922 and 1923, 79 laws have been put upon the statute books affecting tax matters. Before the present legislature, there are 80 bills, some of them companion bills, dealing with the subject of taxation. This proves to us that it probably never will be possible to make a tailor-made tax law, that alterations will have to be made from time to time. I shall take up and discuss the review under the heads of administration, both state and local, the subject of tax exemptions, corporations, which include banks and public utilities, income tax, inheritance tax, motor vehicle, mortgage, a few other miscellaneous taxes. I have a sixty minute speech that I have got to get out of my system in about ten minutes in order to prevent a riot.



DIGEST OF THE LAWS OF THE STATE OF NEW  
YORK RELATING TO TAXATION FOR THE  
YEARS 1920-1923

*Prepared by*

WM. E. HANNAN

*Librarian, Leg. Ref. Section New York State Library*

*Administration, State*

An amendment provides that the annual meeting of the state board of equalization shall be held on the first Tuesday in June annually, formerly the first Tuesday in September. (Laws of N. Y., 1920, Ch. 185.)

The salaries of the State Tax Commission increased. The president of the commission to receive \$8,500, formerly \$6,500, and each of the other commissioners \$8,000, formerly \$6,000. (Laws of N. Y., 1920, Ch. 667.)

The tax law is amended in relation to reorganizing the State Tax Commission and defining its powers and duties and transferring to it certain powers, duties and jurisdiction of the state comptroller and secretary of state. The term of the tax commissioners is increased to six years, formerly three years, and it is provided that no person shall be appointed as a member of the tax commission unless at the time of his appointment he is a resident of the state and expert in the subject of taxation. The president of the commission is the executive head and given sole charge of the administration of the department. The two other members to join with the president in exercising the powers and duties of the office. Each member of the commission is to file a bond in the sum of \$50,000. The president of the commis-

sion is authorized to transfer officers and employees from one position to another in the department or to abolish or consolidate such positions or to remove from office any officer or employee in the department. He is also given power to consolidate or abolish divisions or bureaus. The authority of the comptroller with respect to income, inheritance and other taxes and of the secretary of state with respect to the registration of motor vehicles is transferred to the State Tax Department. (Laws of N. Y., 1921, Ch. 90.))

An amendment provides that the president of the State Tax Commission shall receive an annual salary of \$12,000, formerly \$8,500 and each of the other commissioners a salary of \$10,000, formerly \$8,000. (Laws of N. Y., 1921, Ch. 445.)

By an amendment, relating to the provision regarding official visits of the State Tax Commission to counties, it is provided that the clerk of the board of supervisors shall send notice of such meeting of the commission to each of the supervisors and assessors in the county 10 days before the meeting and shall immediately thereafter advise the commission that such notices have been sent. (Laws of N. Y., 1922, Ch. 321.)

#### *Administration, Local*

The commissioners of equalization have their compensation increased from \$4.00 per day, the former rate, to \$10.00 per day. (Laws of N. Y., 1920, Ch. 54.)

A new section requires the county treasurer to file with the clerk of the board of supervisors not later than December 1st, in each year a sworn statement of the moneys apportioned to each tax district in the county from the proceeds of the franchise tax on business corporations and the personal income tax. (Laws of N. Y., 1920, Ch. 645.)

An amendment to the second-class cities law in relation to powers and duties of assessors provides that such assessors



shall be the head of the department of assessment and taxation and they are authorized to appoint deputies and clerks. It is further made the duty of such assessors to install scientific systems of assessment with tax maps, unit rules and such other systems and records as may be necessary and to gather and file useful and available information that appertains to the value of property subject to their assessment. (Laws of N. Y., 1923, Ch. 709.)

### *Exemptions*

An amendment adds to classes exempt from poll tax marines and veterans of the world war as well as of the civil war. (Laws of N. Y., 1920, Ch. 412.)

An amendment provides that a bonus or insurance granted by the United States or by the state of New York for military or naval services shall be exempt from taxation. (Laws of N. Y., 1920, Ch. 413.)

A new section is added relating to exemption of intangible personal property. The term "intangible personal property" is defined to mean incorporeal property, including money, deposits in banks, shares of stock, bonds, notes, credits, and evidences of interest in property and evidence of debt, but does not exempt shares of stocks of banks or banking associations. The exemption is for both state and local taxes and is in addition to all other exemptions of personal property from local taxation. (Laws of N. Y., 1920, Ch. 647.)

Tax law is amended exempting from local taxation new buildings planned for dwelling purposes. It is provided that the legislative body of a county or of a city with the approval of the board of estimate and apportionment, if there be such, or the governing board of a town, village or school district, may determine that until January first, 1932, new buildings planned for dwelling purposes exclusively, except hotels, shall be exempt from taxation for local purposes other

than for assessments for local improvements. (Laws of N. Y., 1920, Ch. 949.)

It is provided in the section which exempts from taxation property of ministers of the gospel that such real and personal property shall be taxable for water or lighting purposes, when in any water or lighting district established under the provisions of the town law. (Laws of N. Y., 1921, Ch. 168.)

An amendment provides that the dependent mother of a pensioner or a person receiving a bonus or insurance granted by the United States or this state for military or naval service and owning real property purchased with the proceeds of such bonus, pension or insurance shall enjoy the exemption of such property from taxation to the amount of \$5,000. (Laws of N. Y., 1921, Ch. 169.)

The law relating to exemption of new buildings from local taxation by an amendment is extended to September 27, 1922, and it is provided that the law shall not be construed to preclude such local legislative bodies from granting exemptions which do not exceed the exemptions authorized in the law. (Laws of N. Y., 1921, Ch. 444.)

An amendment provides that the use of the real property of a corporation or association exempt under the tax law as a polling place upon days of registration and election shall not be deemed to impair any exemption from taxation otherwise applicable thereto. (Laws of N. Y., 1921, Ch. 446.)

The law relating to exemption of new buildings from local taxation is extended both as to commencement and completion of construction. Commencement of construction is defined. (Laws of 1922, New York, Ch. 281.)

An amendment to the provision exempting new buildings from local taxation extends the time for commencing construction to April 1, 1924 and permits the exemption of three instead of four-story buildings used exclusively for



dwellings above the ground floor. (Laws of N. Y., 1923, Chs. 243 and 337.)

A further amendment increases the value of real property that may be exempt from taxation when owned by an incorporated association of volunteer firemen to \$20,000 formerly \$15,000. (Laws of N. Y., 1923, Ch. 535.)

An amendment relative to exemption of property from taxation, provides that the real property owned by certain veteran associations of the army and navy, when exclusively used and occupied by such association or posts, shall be exempt from taxation. (Laws of N. Y., 1923, Ch. 679.)

An amendment extends to December 31, 1932 the exemption from taxation of vessels engaged in foreign commerce when owned by New York corporations or associations or by an American citizen. (Laws of N. Y., 1923, Ch. 792.)

#### *Corporations, Banks*

The section of the law exempting shares of banks from other taxes is amended to provide that if any bank within the state shall have received from the superintendent of banks special authority to exercise fiduciary powers as provided by section 24-A of the banking law, the said bank tax shall also be in lieu of any franchise tax on any such bank under the provisions of section 188 of this chapter. (Laws of N. Y., 1920, Ch. 84.)

The franchise tax on corporations, both domestic and foreign, is to be paid in advance for the year beginning November first, next succeeding the first day of July in each and every year. It is further provided that the entire net income of a corporation not organized under the laws of any state within the United States which shall be taken as the basis of computation by the tax commission shall be the entire net income, in fact, rather than the amount earned in the United States or the amount returned to the United States treasury department.

A further amendment exempts from this tax, corporations whose sole business consists of holding stocks of other corporations for the purpose of controlling the management and affairs of such other corporations.

A further amendment requires the corporations to report to the tax commission the average monthly value, for the fiscal or calendar year, of bills and accounts receivable arising from the purchase or sale of, or trading in, goods, wares or merchandise, not located at any place at which the corporation conducted a permanent or continuous business without the state, and where the bills and accounts receivable arose from orders received or accepted by any officer or agent, or at any place of business in this state, and also services performed by any officer, agent or representative of a corporation connected with, sent from or reporting, either directly or indirectly to any officer located in this state or at any office located, owned, rented or occupied in the state. Also the average total monthly value of bills and accounts receivable arising from the manufacture by it of personal property or the purchase or sale of, or trading in, personal property, or from services performed by the corporation, its officers or agents, excluding those arising in any way from advances or loans.

A further amendment provides that corporations, owning or controlling capital stock of another corporation, which is liable to a report under this article, may be required to make a consolidated report showing the combined entire net income and assets of the corporations by excluding intercorporate stock and intercorporate accounts. The tax commission may permit the filing of a combined report where substantially all the capital stock of two or more corporations liable to taxation under this article is owned by the same interests and the tax may be imposed as though the combined entire net income and segregated assets were those



of one corporation, or the tax commission may in some other manner equitably adjust the tax.

A further amendment provides that the minimum tax of not less than one mill upon each dollar shall be laid on such a part of its issued capital stock, at its face value, as the amount of its gross assets employed by it in its business in this state bears to its gross assets wherever employed by it in its business, and if such a corporation has stock without par value then the base of the tax shall be such a portion of its issued capital stock as its gross assets employed in its business in this state bears to the entire gross assets employed in its business, and its shares without par value shall be deemed to have a face value of \$100 each for the purpose of this assessment. If such corporation is subject to a tax at the rate of one mill, and it maintains no regular place of business outside this state, except a statutory office, it shall be taxed upon its entire issued capital stock.

A further amendment states that the tax imposed shall be at the rate of 4.5 per cent of the entire net income of such corporation unless taxable upon its capital stock at the rate of one mill or subject to the minimum tax of \$10 as provided in section 215 of the tax law.

The state comptroller is authorized upon submission to him of satisfactory proof that the failure to pay the tax or additional taxes within the prescribed time was not wilful or evasive, to modify the exaction or penalty to not less than one per cent for each month following the due date of the tax. (Laws of N. Y., 1920, Ch. 640.)

The tax law in relation to tax on corporations and transfers of stock is amended so as to provide for the transfer of the powers and duties of the state comptroller in relation to the assessment or collection of such taxes to the tax commission and the word "comptroller" is stricken out and the words "tax commission" inserted where necessary. (Laws of N. Y., 1921, Ch. 443.)

An amendment provides for the distribution of revenues collected from the tax on manufacturing and mercantile corporations one-third to be apportioned among the several school districts in the town in the proportion that the total amount of the assessed valuation of the real property of the corporation in each of the school districts respectively bears to the aggregate assessed valuation of all the real property of such corporations in the entire town. The balance to be retained and credited to general town purposes by the supervisor of the town. (Laws of N. Y., 1921, Ch. 447.)

The organization tax on stock corporations is amended to provide that any corporation issuing shares without designated monetary value shall pay to the state treasurer a tax of five cents on each share which the corporation is authorized to issue and a like tax upon any subsequent increase thereof. Such license tax on foreign corporations with certain exceptions shall be based on the issued capital stock of any corporation issuing shares without designated monetary value and shall pay for the use of the state a license fee of six cents on each such share employed in this state. If a corporation has stock without par value the base of the tax, with relation to such stock, shall be a portion of such issued capital stock at not less than its actual or market value and not less than \$5 per share as may be determined by the tax commission. (Laws of N. Y., 1921, Ch. 705.)

An amendment, in relation to the tax on transfers of shares or certificates of stock, provides that such a tax be laid on certificates of rights to stock or certificates of deposit representing certificates taxable under this article or certificates or interest in business conducted by a trustee or trustees. It is further provided that every person, firm, company or corporation engaged in the business of selling, delivering or transferring shares or certificates of stock shall keep a book account of such sales and deliveries in which book shall also be recorded each separate purchase of stock



transfer stamps showing the date, the amount and from whom purchased. They shall also make record of the face value of the stamps attached in payment of the tax upon the transfer of the certificate of stock. (Laws of N. Y., 1922, Ch. 354.)

The law relating to license tax on foreign corporations is changed by defining such corporations to include, in addition to a joint stock company or association, any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificate or other written instrument. (Laws of N. Y., 1922, Chs. 375-376.)

An amendment to the franchise tax on corporations defines the term "corporation" as used in this connection to include any business conducted by the trustee wherein interest or ownership is evidenced by the certificate or other written instrument. It is also provided that such corporation shall pay a minimum tax of not less than \$10 nor less than one mill on each dollar of such a portion of the net value of this capital stock which net value shall be deemed to be not less than \$5 a share. If dividends on the par value of any kind of capital stock amount to six or more than six per cent, the tax upon such kind of capital stock shall be at the rate of one-fourth of a mill for each one per cent of the dividends. The dividend rate for a corporation having stock without nominal or par value shall be determined by dividing the amount distributed as a dividend during the year by the net value of its assets as of December 31st. The report year for such corporations is changed to the calendar year and time of payment of tax to March 15th. (Laws of N. Y., 1922, Ch. 408.)

An amendment, in relation to the exemption of certain corporations from the franchise tax on capital stock, is enacted to include corporations taxable under the provisions of article 9-A relative to the franchise tax on business corporations. (Laws of N. Y., 1922, Ch. 431.)

An amendment to the organization tax on corporations provides for an organization tax of five cents on each share authorized to be issued without par value. (Laws of N. Y., 1922, Ch. 434.)

The tax law is amended relative to reports on corporations to be made by the secretary of state by requiring that the secretary of state shall transmit to the tax commission notice of all dissolutions, mergers, consolidations, take-overs, increases and decreases of capital stock, changes and dissolutions, withdrawals and revocations of and changes of designees of foreign corporations, filed or recorded in his office. (Laws of N. Y., 1922, Ch. 459.)

An amendment to the franchise tax on business corporations provides that the tax commission may require the filing of a combined report where substantially all the combined stock of two or more corporations liable to taxation under article 9-A is owned by the same interests and any corporation which has been permitted to change the period for which it shall make its report shall in its next report to the tax commission include its entire net income which has not been used or included in measuring a franchise tax to this state, whether such income arose over a period of more or less than one year; and it shall be taxed upon the entire net income which has not been used or included in measuring a franchise tax to this state as though the entire net income had been earned within one year. Provision is also made for crediting such corporations with any excess tax which has been paid. (Laws of N. Y., 1922, Ch. 504.)

The law relating to taxation of bank shares eliminates the provision that the transfer and taxation of such shares shall not be at a greater rate than is made or assessed upon other moneyed capital in the hands of individual citizens of the state. (Laws of N. Y., 1922, Ch. 603.)

An amendment exempts from the article imposing a franchise tax on business corporations those which are engaged



in the business of sub-leasing real property held under lease for a term of 20 years or more by the terms of which the tax on the real property is paid by the lessee corporation as part of the consideration for the leasehold. (Laws of N. Y., 1923, Ch. 328.)

An amendment to the provision of the tax law requiring assessors to apportion the valuation of certain public utility corporations includes, among such corporations, electric light, electric power, and gas companies. It is made the duty of the town clerk to forthwith furnish to the trustees of school districts, to the county treasurer, and, upon request, to each of such companies certified statements of the valuations of such companies apportioned to the respective school and special districts. (Laws of N. Y., 1923, Ch. 656.)

An amendment relative to an organization tax on corporations provides that every corporation which shall change shares with a par value into shares without a par value shall pay a tax of five cents for each share without par value resulting from such change less  $\frac{1}{40}$  of one per cent of the par value on the shares with par value so changed. The tax is to be collected by the state officer in whose office the original certificate of incorporation, or of increase in capital stock is required by law to be filed. (Laws of N. Y., 1923, Ch. 794.)

An amendment to the tax law in relation to the taxation of bank shares provides that shares of banks or banking associations and other moneyed capital shall be taxed locally for state or local purposes. It is provided that bonds, notes, or evidences of indebtedness in the hands of individual citizens not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with such business shall not be deemed moneyed capital within the meaning of this section.

The tax laid is an annual tax at the rate of one per cent on moneyed capital in competition with national banks.

This tax is in lieu of all other taxes both state, county and local. The amendment provides that every individual banker, private banker, every investor and every person, association or corporation, other than banks or trust companies owning or as agent, trustee, guardian, executor or administrator, holding moneyed capital coming into competition with national banks, except shares of national banks or of trust companies organized under the authority of this state and except notes, bonds, or other evidences of indebtedness in the hands of individual citizens not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with such business, shall be assessed and taxed on the actual value of such moneyed capital in the tax district where such owner or holder resides, or if such owner or holder individually or as a co-partner is engaged in the business of banking or investment, then in the tax district where the place of such business is located and for that purpose such owner or holder shall be deemed a resident of such tax district. Certain exemptions are allowed.

Dividends from bank shares are exempt from the state personal and corporation income tax. Dividends from trust company shares are exempt from income tax. The exemptions apply to dividends from banks and trust companies in this state only. Income from moneyed capital coming under the one per cent tax and dividends of corporations coming under this tax are exempt from the state income tax law. The five per cent income tax on foreign bankers is repealed and the capital of such bankers is brought under the one per cent tax. No deduction is allowed from the actual moneyed capital because of personal indebtedness, but allowance is made for indebtedness incurred in the acquisition of such capital and moneys on deposit or securities pledged with the taxpayer shall not be included in the valuation. The owners or holders of moneyed capital are required



to report its value as of May first annually to the local assessors, giving in detail the items comprising such moneyed capital and the manner or method by which such value was determined. (Laws of N. Y., 1923, Ch. 897.)

### *Income Tax*

The state comptroller is authorized to permit the commissioner of internal revenue of the United States or the proper officer of any state which imposes an income tax, to inspect the income tax return of any individual in this state or he may furnish such officer an abstract of the return of the income of any individual or supply him with information concerning any item of income contained in any return made in this state, if the federal government or any state grants reciprocal provisions to the proper officer of this state. (Laws of N. Y., 1920, Ch. 60.)

The personal income tax law is amended to make the tax apply to non-residents and such income tax is required to be paid by non-residents upon income derived from property owned and from every business, trade, profession or occupation carried on in this state for the year 1919 and each year thereafter. It is further provided that such tax, in addition to being a tax against the property, business, trade, profession or occupation of such non-resident, shall also become a personal debt from the time it is due and payable. The law is further amended providing for an equal division of the exemption of \$2,000 in case a husband or wife make separate returns. (Laws of N. Y., 1920, Ch. 191.)

The state comptroller is authorized, except in the case of a wilfully false or fraudulent return with intent to evade the income tax, to determine, within three years after the return was due or made, the true amount of tax due thereon. In the case of a wilfully false or fraudulent return the amount of the tax due may be determined at any time after the return is filed and the tax may be collected any time

after it becomes due. The comptroller is further empowered, in order to ascertain the correctness of any return, or for the purpose of making an estimate of taxable income of any person where information has been obtained, to employ an agent or representative designated by him to make such examination. Such agent to have access to all necessary books and records. (Laws of N. Y., 1920, Ch. 690.)

An amendment defines the word "resident" to be any person, who, during the last six months of the calendar year, shall be a resident of the state. An amendment allows a credit in case of taxpayers, other than residents of the state, if the laws of the state or country of such taxpayer impose a tax upon the personal incomes of its residents derived from sources in this state and exempts from taxation the personal incomes of residents of this state. No credit to be allowed against the amount of the tax on any income taxable under this article which is exempt from taxation under the laws of such other state or country.

A further amendment eliminates the flat rate of two per cent and provides for a graded or progressive rate of one per cent on the first \$10,000 or less; two per cent on the next \$40,000 or less and three per cent of the excess over \$50,000. Every withholding agent shall make a deduction of such amounts from all salaries, wages, commissions, and gratuities due or receivable by any individual. Returns are to be made to the comptroller on or before the 15th day of the fourth month following the close of the fiscal year. If the return is made on the basis of the calendar year then the return shall be made on or before the 15th day of April.

It is further provided, that the director of the income tax bureau, each assistant, deputy and district director, each cashier, senior auditor, auditor and junior auditor of the income tax bureau, shall have the power to administer oaths. (Laws of N. Y., 1920, Ch. 691.)



The income tax law has a new section added providing for penalties for failure to make return at the proper time. In such a case there is to be added to the tax due an additional amount equal to five per cent thereof. In no case to be less than \$2 and an additional one per cent for each month or fraction thereof during which the tax remains unpaid. In case any taxpayer voluntarily fails to make a return of his income and pay the tax, the tax due shall be doubled and such doubled tax shall be increased by one per cent for each month or fraction thereof from the time due to the date of payment. Any individual, corporation or partnership, which, without fraudulent intent, shall fail to pay, or who deducts or withholds any payment or any information shall be liable to a penalty of not more than \$1,000. Any such person or corporation wilfully intending to evade the income tax or to supply any information or who shall make any false or fraudulent return or supply false information shall be liable to a penalty of not more than \$1,000 and shall also be guilty of a misdemeanor and upon conviction shall be fined not to exceed \$1,000 or to be imprisoned not to exceed one year or both. A further amendment provides for the making of returns by an agent, guardian or other fiduciary of a taxpayer. In the case such withholding agent shall have the time extended for filing a return, he and not the taxpayer for whom he acts, shall pay interest at the rate of six per cent per annum from the time the return was required to be filed to the time of payment.

It is further provided, that, in case an understatement of the amount in the return is not the fault of the taxpayer, no penalty shall be exacted, but interest shall be added to the amount of the deficiency at the rate of one per cent per month. If such understatement is due to negligence by the taxpayer but without fraudulent intent, there shall be added to the amount of the deficiency, five per cent and, in addition, interest at the rate of one per cent per month. If such

understatement is false and made with intent to evade the tax, the tax on the additional income discovered to be taxable shall be doubled and an additional one per cent added to the amount due for each month. The excess found due shall be paid to the comptroller by the taxpayer within 10 days, formerly 30 days. The comptroller is given the power, upon making a record of his reasons, to waive or reduce any of the additional taxes or interest. (Laws of N. Y., 1920, Ch. 692.)

An amendment to the income tax law amends the section relating to deductions, by providing, that all interest on indebtedness may be deducted, and in the case of a taxpayer, other than a resident of the state, losses sustained in real property or intangible personal property having an actual situs within the state and not compensated for by insurance or otherwise. (Laws of N. Y., 1920, Ch. 693.)

The income tax law is amended in relation to the distribution of the income tax. It is provided, that, if one or more incorporated villages or cities be wholly or partly within a town, the county treasurer shall divide the amount apportioned to such town between the town and village, villages or city in the proportions that the assessed valuations of the real property of the town, village or city or the portion thereof wholly within such town bears respectively to the aggregate assessed valuation of the real property of such town and of such village or city which is determined by adding together the assessed valuation of the real property of the village or city or the portion thereof wholly within the town as the case may be. If two or more villages are entitled to share in such division, the county treasurer shall divide between them the amount to which they are entitled in the proportions that the assessed valuation of the real property of such villages, located in the town, bears to the aggregate assessed valuation of the real



property of such villages located in the town as so determined. (Laws of N. Y., 1920, Ch. 694.)

The income tax law is amended with respect to the taxation of personal incomes from estates and trusts. The amount which is to be included in the gross income is amended to include gains or profits or income derived through estates or trusts by the beneficiaries thereof, whether as distributed or as distributable shares. Further amendments are made relative to the acts of a fiduciary acting for individuals or estates. (Laws of N. Y., 1920, Ch. 695.)

It is provided in an amendment to the income tax article in relation to income tax deductions that in the case of a debt existing on January 1, 1919, no more than its fair market value on that date shall be deducted. A worthless debt arising since January 1, 1919 from unpaid wages, salary, rent, or any similar item of taxable income, is not allowed, unless the income which such item represents has been included as income by the taxpayer in a return. (Laws of N. Y., 1921, Ch. 214.)

An amendment provides that no interest shall be charged because of an understatement in the income tax return if such return is made in good faith and the understatement is not due to any fault of the taxpayer; provided the deficiencies be paid within 10 days after notice of the amount due shall have been mailed to the taxpayer. If payment is not made within 10 days there shall be added to the amount of the deficiency five per cent and, in addition, interest at the rate of one per cent per month. (Laws of N. Y., 1921, Ch. 267.)

The income tax law relating to personal incomes is amended in order to conform to the reorganized State Tax Department. The word "comptroller" is stricken out and the words "tax commission" inserted where necessary. A further amendment requires all revenues collected under the income tax law to be deposited daily with such responsible

banks as may be designated by the comptroller to the credit of the comptroller of the state of New York. Adequate security to be required from all such depositories. The tax commission is to certify to the comptroller the apportionment of the income tax proceeds of the various counties and the comptroller is to distribute the same.

It is further provided that upon the distribution of the proceeds of the income tax to any town by the county treasurer the supervisor shall distribute, not to exceed one-third of the amount allotted to the town among the several school districts of such town in the proportions that the assessed valuation of the real property of each of such school districts, respectively, or part thereof, in such town, bears to the aggregate assessed valuation of the real property of the entire town, but the amount so distributed to any school district for any one year shall not exceed one-fourth of the amount raised by taxation in such school district for school purposes during the preceding year and the excess, if any, not so distributed to any such district, shall be retained by the supervisor and credited, together with the remaining two-thirds of such total allotment to general town purposes. (Laws of N. Y., 1921, Ch. 477.)

The tax law is amended in relation to the ascertainment of gain or loss for the purpose of the income tax. It is provided that in the case of property acquired prior to January 1, 1919, and disposed of thereafter, no profit shall be deemed to have been derived, if either the cost or the fair market price or value on January 1, 1919, exceeds the value realized, and no loss shall be deemed to have been sustained if either the cost or the fair market price or value on January 1, 1919 is less than the value realized.

Where both the cost and the fair market price or value on that date are less than the value realized the basis for computing profit shall be the cost or the fair market price or value on January 1, 1919, whichever is higher and where



both the cost and fair market price or value on that date are in excess of the value realized, the basis for computing loss shall be the cost or the fair market price or value on January 1, 1919, whichever is lower. (Laws of N. Y., 1921, Ch. 573.)

An amendment relative to the distribution of the income tax provides that the town board by resolution may direct the supervisor to retain all income tax moneys allotted to the town, in which case the one-third of the allotment shall not be distributed to the school districts but all moneys so allotted to the town shall be credited to general town purposes. (Laws of N. Y., 1922, Ch. 107.)

A new provision is added in relation to deductions allowed from gross personal income, by providing for deductions in the case of income received during the taxable year as dividends from a corporation on which such corporation has already paid or is liable by assessment to pay the franchise tax required of business corporations. Such corporations shall not have more than five stockholders, its capital stock must not be a material income producing factor and its income is to be ascribed primarily to the activities of the principal stockholders who are themselves regularly engaged in the active conduct of the affairs of the corporation and that the total sum paid by it to elected officers is not more than 15 per cent of its entire net income. (Laws of N. Y., 1921, Ch. 625.)

The income tax is further amended by defining the term "resident" to be any person domiciled in the state of New York or any other person who maintains a permanent place of abode within the state and spends in the aggregate more than seven months of the taxable year within the state. Relief is extended to persons who change their status from a resident to a non-resident or vice versa. Such person is required to file two returns, one covering the portion of the year he was resident and one covering the portion of the

year he was non-resident. The exemptions which are allowed are to be divided rateably between the two returns. (Laws of N. Y., 1922, Ch. 425.)

The provisions of the income tax law, relative to estates and trusts, is amended to provide that a trust, the distribution of the income from which is in the discretion of the fiduciary, either as to the beneficiaries to whom payable, or as to the amounts to which any beneficiary is entitled, is taxable without deduction of any amount paid or credited to any such beneficiary. It is also provided that a trust, created by an employer as a part of a stock bonus or profit sharing plan for the exclusive benefit of his employees to which one or both contribute, shall not be taxable; the employee to be taxable only on any amount distributed to him from such fund to the extent that the amount received exceeds the amounts paid in by him. (Laws of N. Y., 1922, Ch. 426.)

The personal income tax law is amended in the matter of dealing with inventory and the time and place of filing returns by striking out in such sections references to the federal income tax law. The reason for this elimination is due to the frequent changes in the federal income tax law. (Laws of N. Y., 1922, Ch. 427.)

There is added to the personal income tax law two new sections, which relate to the exchange of property. It is provided that when property is exchanged for other property having a readily ascertainable market value, the property received in exchange shall, for the purpose of determining gain or loss, be treated as the equivalent of cash to the amount of its fair market value, if any; or if property received in exchange has a readily ascertainable cash value, no gain or loss shall be recognized in the following cases: (1) when in a corporate reorganization or consolidation, or (2) when a person transfers any property to a corporation and because of such transfer is in control of



such corporation by stock ownership acquired by the transfer of such property for stock of the corporation. When no gain or loss is realized in the exchange of property, the property received shall be treated as taking the place of the property exchanged. (Laws of N. Y., 1922, Ch. 429.)

A further amendment to the income tax law adds a new provision which provides that gross income shall not include amounts deducted for federal income tax or from interest due on tax free bonds. (Laws of N. Y., 1923, Ch. 135.)

An amendment to the income tax law relating to exemptions increases the personal exemption of the head of a family or a married person living with husband or wife to \$2,500, formerly \$2,000, unless the net income of such person is in excess of \$5,000, in which case the personal exemption shall be \$2,000. If such husband and wife make separate returns the personal exemption shall be equally divided between them. It is provided that in no case shall the reduction of the personal exemption from \$2,500 to \$2,000 operate to increase the tax which would be payable if the exemption were \$2,500, by more than the amount of net income in excess of \$5,000. The exemption for dependents is increased to \$400 for each person, formerly \$200. (Laws of N. Y., 1923, Ch. 547.)

### *Inheritance Tax*

The inheritance tax law amended relative to bequests made to a bishop or bequests made to corporations exempt from inheritance tax article. (Laws of N. Y., 1920, Ch. 765.)

The inheritance tax law is amended so as to make it conform to the reorganized State Tax Department. The words "state comptroller" are stricken out and the words "tax commission" inserted and other changes made where necessary in order to bring the law under the supervision of the tax department. (Laws of N. Y., 1921, Ch. 476.)

An amendment makes taxable certificates of interest of corporations or of joint stock companies or associations including all evidences and rights to subscribe to the stock of such corporations, property conveyed under a trust deed by the terms of which the donor may alter the amount or revoke the same, and property over which a non-resident donee exercises a power of appointment. (Laws of N. Y., 1922, Ch. 430.)

A further amendment to the inheritance tax law determines the rule for fixing the tax upon transfers for non-resident decedents. The aggregate transfer is first determined which is to be the fair market value of the property whether within or without the state after making the proper deductions, and second,—the New York transfer, that is the fair market value of that part of the property included in the aggregate transfer after computing the proper deductions, and third,—the tax, which would be imposed upon such aggregate transfer if the whole were taxed. The amount of the tax upon the transfer taxable to be such a part of what the tax would be upon the aggregate transfer as the New York transfer bears to the aggregate transfer, but without increasing the credit rate by the inclusion of property without the state and without taxing transfers of which the amount is not over \$500. (Laws of N. Y., 1922, Ch. 432.)

A new section is added to the inheritance tax law providing for optional commutation of the tax in non-resident estates. The amendment provides that the transfer tax in the estate of a non-resident decedent may be computed and finally settled as between the state and all parties in interest by the payment to the State Tax Commission of a sum to be determined by the commission, which sum shall not be less than two per cent upon the clear market value of all the property within the state taxable under this article and



without deduction or exemption of any kind. (Laws of N. Y. 1922, Ch. 433.)

### *Motor Vehicles*

The fee for number plates for omnibuses is increased from \$2 to \$10. (Laws of N. Y., 1920, Ch. 683.)

The motor vehicle law is amended by striking out the words "secretary of state" and inserting the words "tax commission" in order to place the administration of the motor vehicle law under the State Tax Commission. The registration year is made to conform with the calendar year. It is also provided that the clerk of each county except Albany county or a county wholly included within a city shall act as the agent of the State Tax Commission in the issuance of number plates for passenger and commercial cars and such other plates and badges as the State Tax Commission may direct. Such county clerk shall remit to the State Tax Commission at the close of each day all fees collected by him for motor vehicle registration and licenses together with a complete record of the same. Each county clerk shall be entitled to a fee of 10 cents for each registration issued, which shall be paid by the county treasurer from the portion of the motor vehicle registration license money returned by the state to the county. Provision is also made in the matter of regulating the speed of motorcycles.

The tax commission is required to deposit all registration fees in a responsible bank in the city of Albany which shall pay the highest rate of interest to the state for such deposit. The state comptroller is required on or before the 10th day of each month to pay to the state treasurer 75 per cent of the balance due to his credit in such bank on account of registration fees and shall further pay to the treasurer of each county 25 per cent of the registration fees collected from residents of such county. It is further required that

on the first day of each month, or within 10 days thereafter all fines, penalties or forfeitures collected for violation of any provision of the motor vehicle law or of any act in relation to the use of the public highways by motorcycles shall be paid over by the court or judge to the treasurer of the state with a statement accompanying the same setting forth the action or proceeding in which such moneys were collected, the name and residence of the defendant, the nature of the offense and the fine, penalty and sentence imposed. (Laws of N. Y., 1921, Ch. 580.)

An amendment in relation to the registration fees for motor vehicles provides in the case of a motor vehicle fully equipped and weighing 3,500 lbs. or less a fee of fifty cents for each 100 lbs. or major fraction thereof, if such motor vehicle weighs more than 3,500 lbs., 75 cents for each 100 lbs. or major fraction thereof. An amendment also provides a minimum fee of \$8 in the case of a registration or re-registration of any other motor vehicle other than 6, 8, or 12 cylinder motor vehicles. It is also provided that the manufacturers' weight of motor vehicles shall be accepted as the weight for the purpose of registration hereunder. (Laws of N. Y., 1922, Ch. 535.)

An amendment in relation to registration fees for motor trucks increases the annual fee for a truck having a carrying capacity of two tons or less to \$16, formerly \$10 and for a truck having a carrying capacity of more than two tons the former annual fee which was \$15 is made \$8 for each ton or fractional part thereof. (Laws of N. Y., 1922, Ch. 536.)

#### *Miscellaneous*

An amendment in relation to the mode of assessment of state lands provides that in the assessment of such state lands the assessment rolls in the various preserves and in certain towns shall have appended thereto a statement which



shall show what lands are forest and what are state lands. The State Tax Commission is to fix a date between July 1, and August 10, each year when it shall meet with the assessors of such towns at the county seat for the purpose of examining the assessment rolls and hearing complaints on the part of the state with respect to assessments on such state lands. After the examination by the representatives of the tax commission and the assessors the latter shall fix the value of the state lands with the approval of the tax commission. Such value may be increased or diminished. (Laws of N. Y., 1923, Ch. 650.)

Article 15 of the tax law relating to tax on investments is repealed. (Laws of N. Y., 1920, Ch. 646.)

In the case of the nonpayment of a tax imposed on a mortgage, there is to be added to the tax a sum equal to one-half of one per cent for each month or fraction of a month of the period that the tax remains unpaid, except where it could not be determined that a tax was due or where an advance has been made on a prior advance mortgage or a corporate trust mortgage without payment of the tax in which case there is to be added to the tax a sum equal to one per cent for each month or fraction of a month for the period that the tax remains unpaid. (Laws of N. Y., 1920, Ch. 51.)

Whenever a mortgage has been recorded without the payment of the tax thereon the State Tax Commission, after the parties in interest have been given an opportunity to show that the failure to pay the tax was due, either to an honest misunderstanding on the part of the recording officer or the owner of the instrument, may make an order permitting the recording officer to file a sworn statement as to the date of the recording of the mortgage. The payment of the tax to be made on the basis of such statement with interest at the rate of six per cent per annum. (Laws of N. Y., 1920, Ch. 75.)

A new section provides for the payment of the mortgage tax on an executory contract for the sale of real property which is not acknowledged for record. The recording officer is to endorse upon the contract a receipt for the amount of the tax paid. Such contract shall not be excluded from admission in evidence in any proceeding nor judgment or final order withheld upon the ground that such mortgage tax has not been paid. (Laws of N. Y., 1920, Ch. 641.)

CHAIRMAN GILCHRIST: The next feature, I think, will be most instructive, and it gives me great pleasure to surrender the gavel to my colleague and fellow tax commissioner, the Honorable Mark Graves, who will conduct the question box from the platform. (Applause.)

COMMISSIONER GRAVES: It is with some little trepidation that I undertake to stand up here and answer the great variety of questions which you men have so kindly put in the question box. Nevertheless, with the aid of the legal members of our staff, we are hopeful we may answer your questions and make our answers clear to you. If not entirely clear, I hope they will at least be as clear as the explanation which a certain chap who had been arrested for being drunk gave to the magistrate. He was haled into court, and the judge said "Do you plead guilty or not guilty. This police officer here tells me that he found you trying to climb a lamp post, and that he smelled squirrel whiskey on your breath." "Well, judge, I'll tell you about that. I have been wandering around all day followed by two cerise crocodiles, and I don't mind telling you they got on my nerves, and I thought I would climb up that lamp pole and get out of the way."

At the outset, I hope you will bear with us, and not accuse all of us of being like the fellow's mother-in-law. It seems that in one of the rural sections of the state, a doctor was driving on after having called on a patient, and he was met by one of the natives of that particular neighborhood,



inquiring what the neighbor was sick of. He says, "Has he got small-pox?" The doctor says, "Well, I don't know. The case hasn't progressed far enough yet for me to judge." "Well," the chap says, "my mother-in-law says he has small-pox." "Well," the doctor inquired, "has your mother-in-law seen the case?" "No." "Has she ever seen a case of small-pox?" "No, but that don't make no difference to my mother-in-law."

We have such a great number and variety of questions, that I think the only way we can deal with this successfully and be sure and get through on time—and our president always enjoins upon us conciseness and brevity—that we shall go through the questions and answers, and then if we have some time remaining, we will permit other questions to be asked from the floor.

## QUESTION BOX

Why isn't stock in stores assessed in the town where the business is done, instead of where the owners reside?

Well, the first answer is that the law provides that personal property shall be assessed at the residence of the owner. The theory of the law is that personal property has the same situs as the owner. At this point, let me add, that in the case of business corporations, that is manufacturing and mercantile corporations, no assessment lies against the stock in trade or other personal property, because those corporations pay  $4\frac{1}{2}$  per cent franchise or income tax to the state, one-third of which is ultimately sent back to the localities where the stock is located.

Has the town board power to allow for transportation of the local assessors about the town above the day fee paid to the assessors?

Yes. The law was amended by the legislature of 1923, and the assessors may receive their actual and necessary travelling expenses, if the town board is willing to reimburse them. The provision is found in paragraph C of section 85 of the town law, as amended in 1923.

How are assessors to know how to assess telephone and power lines through the town?

The most practical method is to require the telephone or power company to supply in the form of an affidavit, an itemized list or inventory of the property they have within the town, and to show how much it cost to build the line, and if it has been built some years what it would cost to replace it, less depreciation. If the assessors, upon receiving that data or information, are then in a quandary, if they doubt the values, they should call upon the State Tax Commission.



We have two expert engineers whose business it is to go around and aid local assessors in determining the proper values to be placed on public service corporation properties. I might add that under section 170 of the town law, subdivision 9, the town board may employ experts to aid the assessors in arriving at these values.

A certain property belongs to a certain party by deed but another party has a life use of the property. Who should it be assessed to, the one who holds the deed or the one who has the life use?

Legally and technically, the assessment is against the property, not against the individual. However, it is desirable in such a case to enter the name of the life-tenant. It is understood that he is responsible for the payment of the tax. It is to him that the collector should look for payment. If the life-tenant neglects or fails to pay the tax, it may be returned in the usual manner and a sale of the property for unpaid taxes will be sustained.

A widow lady, owner of real estate, had deeded the property to her two daughters, but reserves a life lease. She has used \$544 of pension money on repairs. She has an exemption of \$950 on purchase price of said real estate. She pays all taxes and repairs. Is she entitled to exemption by the use of pension money on repairs after deeding property to her daughters?

No, not unless the money so invested in repairs serves to enhance the value of the property. If the repairs were merely ordinary repairs, made to keep the property in its usual and customary condition, she is entitled to no additional exemption.

Are abandoned state canal lands assessable.

No, not so long as the title remains in the state.

MR. GRAVES: I shall now ask Deputy Commissioner Seth T. Cole to answer the next four questions, Numbers 7, 8, 9 and 10.

MR. COLE: I want to assure you gentlemen that the reason why Commissioner Graves is asking me to answer these questions is not because he cannot answer them himself,—because he can—but I am acting as a sort of first aid to his voice.

The Allegany Indian Reservation extends through our town but is not included in the acreage. We have stores, garages and houses located on this reserve. The owners lease the land of the Indiwadd Indians from year to year and are subject to removal at any time the Seneca Council deems it advisable. We have been assessing this property as personal and are experiencing difficulty in collecting the taxes. In some instances the owners have received counsel which appears to be sufficient to warrant not compelling them to pay the taxes assessed. This is a matter which needs immediate attention and legal authority to enforce. If you have not a legal version now, please write us a satisfactory and legal authority upon this subject as it affects several towns in that locality to some extent and they all wish a legal decision on the subject.

In assessing property of the character mentioned as personal, an error has been made. It is real property and should be assessed as such. There should be placed upon the assessment roll an accurate description of the land, and separate from that description, a description of the improvements thereon, and it should be made clear upon the roll that the assessment covers the improvements only.

Is there any minimum amount per acre in placing valuations on waste land?

No, like other property it should be assessed at its fair market value, whatever that may be.

What remedy has a taxpayer in a joint school district who lives in a town which assesses its property at eighty per cent, when the other town in which a portion of the joint district is situated assesses at 40 per cent?



In such a case, the taxpayer who is aggrieved, the man who lives in the town assessed at 80 per cent, should ask the trustee of the school district to request the district superintendent of schools to equalize the valuations in the school district. If the trustee neglects or fails to comply with such request, he should secure two other taxpayers in the district to join with him in making the request to the district superintendent of schools. The district superintendent, when such a request is received, should make application to the State Tax Commission for the rates of assessment established for the towns involved in the joint school district. With that information before him, it is the duty of the district superintendent of schools under section 414 of the education law to equalize the school taxes on the basis of those rates.

A piece of property was purchased for \$500, all of which was pension money. Since then the property has been assessed \$1,000. How much are they exempt?

\$500. The fact that a piece of property was acquired wholly with pension money, does not mean that that property will forever remain exempt from taxation for its full valuation. The statute provides that the exemption shall extend only to the number of dollars of pension money actually used in and towards the purchase of the property. If it enhances in value the excess is liable to a taxable assessment. Just for your information, let me add that in no case is an exemption of property purchased with pension money to be allowed unless application for the exemption is made to the assessors.

MR. GRAVES: Mr. Cole was kind enough to say that I called on him not because I couldn't answer the questions, but to save my voice. I am not so sure about that; but one of the reason that I had in mind in calling upon him,—I wanted you people to know that we have an array of legal talent in this department; that we are not like the western city where a stranger from the east dropped in, and found

it necessary to hire a criminal lawyer. He met a chap on the street, who looked as though he might belong there, and he said "Have you a good criminal lawyer in this town?" "Well, I am not sure about it," was the answer, "we have one we suspect, but we can't prove it on him." (Applause.) Just to show you that we have more than one good lawyer, I am now going to ask Mr. George H. Kenna to answer questions 11 to 15, inclusive.

MR. GEORGE H. KENNA: I have here some four or five questions which have reference to the exemption of property. Judging by the amount of correspondence which comes to our office every day the question as to the taxable status of property appears to be a very embarrassing one to the assessors. As these questions appear to be typical of many of your difficulties, I hope they will serve to elicit the information which will lessen, if not entirely remove these difficulties.

Should assessors put on their tax books for assessment purposes the values of merchandise on the shelves of stores and stocks of merchandise of other business concerns?

The answer is "yes" if the property is owned by an individual or a partnership, but the assessment can only be made in the tax district in which such individual or the partners reside. The answer is "no" if it is owned by a business corporation subject to the franchise tax under article 9-A of the tax law. These business corporations include generally manufacturing and mercantile corporations. Pursuant to section 219-J of that article, the personal property of these corporations, with the exception of bank shares and moneyed capital coming into competition with the business of national banks, is exempt from local property taxation. The 9-A tax is in lieu of the local personal property tax. In return for the loss to the localities occasioned by their inability to assess this personal property,



the statute provides that one-third of the revenue collected under article 9-A shall be returned to such localities.

House and lot owned by a church, used in the past as a parsonage, and carried an exemption of \$4,000. Now, it is rented, brings an income to the church; but the minister, a bachelor, has a room in the house, hires his board and room of the lessee of the property. Any exemption under present state of facts, and if so, how much?

This property is subject to taxation. The attorney general has ruled that where parsonage property is rented out by the church for purposes of income, the exemption is lost. The house and lot being rented out would therefore be subject to taxation.

Property of Young Men's Christian Association (the association building) has also dormitories and rents rooms to men, receives rental therefor, also has large hall which it rents from time to time to outside organizations receiving pay therefor. What is status of that property for taxation purposes? What exemption, if any?

Under subdivision 7, of section 4, of the tax law, the property of Young Men's Christian Associations is exempt from taxation provided it is used exclusively for Y. M. C. A. purposes. However, if part of the property, such as the restaurants and dormitories which are conducted by many of the associations, is open to and used by the general public, such part would be subject to taxation. To be exempt the restaurants and dormitories must be confined to Y. M. C. A. members. In the case of the hall which is rented out, the courts have held that an occasional renting of the property, which would otherwise be exempt under subdivision 7 of section 4, does not render it taxable. However, if the renting is so habitual as to become a fixed practice or policy of the association, the exemption is lost and this part of the property should then be placed on the roll for taxation purposes.

Private party owns a building which it rents for use as a church and receives regular rent therefor. Any exemption in such a case?

Subdivision 7 of section 4 of the tax law covers only corporations and associations. However, in the case of church property, the statute provides that where the property is held by an officer of a religious denomination the same exemptions subject to the same conditions and exceptions shall apply as when the property is owned by a religious corporation. Our questioner does not make it clear whether the individual referred to in his inquiry is an officer of a religious denomination or not. If he is, the property would be exempt provided it is used exclusively for religious purposes. If the individual is not such an officer, the property would be taxable irrespective of the purpose for which it is used. Since it appears that the building in question is rented out for purposes of income, the property must be held to be taxable even though the facts should disclose that it is owned by an officer of a religious denomination.

What is the rule as to parochial schools in the matter of exemption from taxation?

Parochial schools are exempt from taxation under subdivision 7 of section 4 of the tax law, provided they can establish that they are organized exclusively for educational purposes, and that their property is used exclusively for such educational purposes. For the purposes of the exemption under this statute it is immaterial whether the instruction is free or a tuition charge is made therefore, providing the school is not conducted for profit.

MR. GRAVES: Now you see why I called on Mr. Kenna on these exemption questions. I always feel when I am confronted with exemption questions, how the boy's father felt when the boy asked him to define the fourth dimension. "I can't bother today with that." "Why, is it a foolish question?" "No, it is not a foolish question, but to tell



the truth I never heard an answer that was very sensible." A lot of these questions it is quite difficult to get a sensible answer to. (Applause.)

The next member of our staff on whom I am going to call, is the head of the legal division. Last night when we were going over these questions in the department, and I found some more or less puzzling to me, he told me this one. He said a certain lady had a little daughter very sick. She called in a doctor, and he looked the child over very carefully, and said "Well, give her some castor oil." "Well, but, doctor," says the lady "castor oil is such an old-fashioned remedy." "I know," he said, "but children are old-fashioned things." (Applause.)

To Mr. Sill, because of his long experience in this department, these questions were not a bit puzzling. He will now answer questions 16 to 20, inclusive.

MR. SILL: *Mr. Chairman, Ladies and Gentlemen.*—I wish I could second that statement of the commissioner's, that they are not in the least puzzling. We, in the law bureau, find that it doesn't seem to make any difference how many puzzling tax questions and problems we have answered in the past, there are always plenty more to crop up. It is fortunate that we do have an array of legal talent, and it is also fortunate that we have included in that legal talent the commissioner who has introduced the last speakers.

How can we determine where the center of the Hudson river is in assessing the Castleton bridge? Is it in the channel or half way between shores?

This is signed by a Coeymans assessor. The center of the Hudson river between the counties of Albany and Rensselaer is the center of the main channel, measuring from high water mark. However, I should like to state that most of the property of the Castleton bridge is special franchise property, assessable by the State Tax Commission. The part of the bridge that the Coeymans assessors should assess is

that part of the bridge on the shore down to high water mark. That part should be assessed as a part of the real property of the company.

Who assesses the telephone and telegraph lines that cross the fields away from the highway?

That, of course, is the duty of the local assessor. The special franchise property of such public utilities consisting of tangible property, situated in the streets, highways and public places, together with the intangible right of the corporations to operate in such places, is assessable by the tax commission. The local assessor assesses all other public utility property outside of the streets, highways and public places.

Should a pea viner be taxed in town where used or at headquarters?

This question doesn't say whether the pea viner is owned by a business corporation, or by an individual. It brings up another question also, as to whether you can consider a pea viner real or personal property. I assume that it would be personal property. Certainly, that would be true if it is carried from place to place, remaining a short time in each place, where the work is performed. If it is owned by a business corporation and is personal property, it would be exempt from taxation in view of the fact that the corporation pays a franchise tax under article 9-A of the tax law, and all of its tangible personal property is exempt from taxation. If it is owned by an individual, and is personal property, it would be subject to taxation to the individual, where he resides, pursuant to the provisions of sections three and six of the tax law.

How does the State Tax Commission determine the special franchise tax as given to the towns?

That is a question, I think, that should be answered by one of our experts in the special franchise bureau. I might say, however, in a general way, that special franchise assess-



ments represent two elements, that is, the value of the intangible right that the public utility has to operate in the streets, highways or public places, and second, the value of the tangible property of the public utility used in connection therewith and situated in the streets, highways and public places. These two elements added together and equalized at the rate at which property is assessed in the tax districts, represent the valuation that the commission certifies to the particular town, city or village in which the special franchise property is situated. The difficult part, of course, of the special franchise computation is ascertaining the value of this intangible right. It is determined by the experts in our special franchise bureau by means of a technical rule called the "net earnings rule."

Is church property which has not been used for church services in three years and offered for sale for \$7,500 for other purposes, assessable?

Now, that is rather a nice question. Personally, I don't feel absolutely sure upon the proposition, and I think most of us in the department feel the same way. It is a mooted question as to whether you can say a church, which has not been used for several years, and which is advertised for sale, is abandoned, and is no longer exempt under subdivision 7 of section 4 of the tax law. The statute provides that a religious corporation which is organized exclusively for religious purposes and its property used exclusively for religious purposes, is exempt from taxation. Query: Can you say that this church is used exclusively for religious purposes? Is there a presumption that, in view of the fact that the church has not been used for three years, and that they have advertised it for sale, the church has been abandoned for church purposes, and therefore may be considered to be in the taxable class of property? We have held, as I recall, in one other case, under a somewhat similar situation, that that property was subject to taxation. It is a matter,

however, that is not free from doubt by any means. It is very questionable whether the courts would hold that under such circumstances the property has lost its rights to exemption. It is one of those border line cases.

MR. TOBIN: Mr. Sill, might I interrupt there? Would it be possible, under that state of facts for the board of assessors to make a request upon the owners of the church, that is the corporation, as to what their intent was as to the future use of the building? That is, if not actually used for church purposes, no religious ceremony being carried on—for the board of assessors of that town to address themselves to the owner of the church, and ask the owners of the church to indicate whether they intended to use it for church purposes, or whether they intended to sell it for business purposes? Wouldn't that answer the question of the statute?

MR. SILL: Well, I think, that would certainly indicate the intent.

MR. TOBIN: It seems to me the intent is a very important part governing this question.

MR. GRAVES: The last question that Mr. Sill undertook to answer is one difficult to diagnose, just as difficult as the case of the young mother, whose little girl was crying. She didn't know what was the matter with the little girl, and the young father of the first child in the family, said to the wife, "What do you think is the matter with the child?" "Well, I don't know. It is either because she has eaten too many strawberries, or crying for more." (Applause.) My legal intuition tells me this with respect to that question,—that no court will sustain an assessment against the property until it is used for some other than a religious purpose.

Should a building that is not completed, be assessed?

Yes, it should be assessed according to its condition on



the day of taxable status, which, in most of the towns, is July 1.

Should a farm be assessed to a man's son that does not own same? Father has deed of farm. Father wants it that way.

No. It should be assessed against the owner, or if he is unknown, the last reputed owner, but at this point let me stress this: Legally, technically speaking, the assessment is against the property, and not against the individual, and an error in the name does not invalidate the assessment.

If an electric light and power company absorbs another, shall the local assessors make reports to the tax commission of the transfer of their special franchise property?

The law doesn't require it, but it would aid the tax commission and improve the situation generally, if all local assessors would report any such transfer. A company acquiring a franchise is required to report it to the tax commission within thirty days after acquisition. That course is usually followed by the corporation, but sometimes they fail.

Is the manner of taking excessive sales from records in county clerk's office when said excessive sales include personal property, equal in many cases to one-half or more of the entire sale price, a fair basis of equalization?

No, the State Tax Commission doesn't consider any such sales, unless it does it unconsciously. It earnestly endeavors to get the facts in each case, and no board of supervisors should include such sales, at least not until they have taken from the sale price the value of the personal property or the consideration paid for the personal property included in the sale.

Parties that are controlling large parcels of land, protected by nine foot wire fence and carekeepers, would that increase the value of adjoining property, and how much?

It might increase it, or it might decrease it. The assessors, when confronted with such a situation, must inquire into the facts and exercise their best judgment in determining what influence the proximity to a piece of property so fenced in and protected has. It is, of course, impossible to say how much it would increase or how much it would decrease. Each case would of necessity have to stand on its own feet.

Is it right for the state to consider the transfer of some special properties—the rural districts, such as water power, hotels and summer camps—should that increase the property value in general?

No, not necessarily. It should not increase the property value in general unless the influence of these properties enhances the full value of real property generally.

What has been the experience of cities assessing under the one man assessor? Is it beneficial or not?

The observation of the commission is that better results are obtained in those cities where they go to the single assessor or tax official. Not enough of the larger cities have embraced the idea or adopted the plan to enable the commission to judge what would happen in cities of the size of Albany, and larger. The commission sees no reason why it may not be equally successful in the larger cities. The possibilities are that better results can be accounted for in this way. In those cities where they have a single assessor, they pay him enough so he can devote full time to the people, and moreover the salary is sufficient to attract a man with technical qualifications, if you please, for the job. One of the drawbacks in the past has been that cities and not only cities, but towns, as well, have not been willing to pay their officials sufficient compensation in order to get a good job done. (Applause.)



In getting the equalization of a county, should the special franchise be added to the real property and corporations to arrive at the rate?

Yes, the board of supervisors in preparing the county equalization table should add to the valuations established by the assessors on real property, and the property of corporations, the special franchise valuations certified by the State Tax Commission and upon the basis so determined compile the equalization table.

Would it not be a good idea if the legislature added to the statute that the supervisors should have their expenses the same as the assessors to attend the tax conferences?

That question is naturally one which might more properly be addressed to the legislature. It is a legislative, not a tax problem. The tax commission is gratified to find so many supervisors taking an interest in this work, and coming to these conferences. The commission believes that the town and the county will be benefited by the experience and information and data and what not that they acquire by the contact established at one of these conferences. It would not offend the tax commission at all,—in fact, it would look upon it with approval—if someone introduced a bill making provision for the payment of the expenses of supervisors who desire to attend these tax conferences.

Are the assessors obliged to assess the property at the figure placed by an expert when one is called?

No. The question doesn't indicate whether the experts were employed by the assessors or by the town or by the taxpayer. If employed by the assessors, or by the town, good faith, rather requires the use of the valuation. The town shouldn't go to the expense of hiring an expert unless they hire one in whom they have confidence and having received his report, it is reasonable to assume that it should be used. But the answer to this specific question is "no."

MR. GRAVES: Mr. Sill, I will now let you answer questions 31 to 36, inclusive.

MR. SILL: Can a fraternal organization, say a Masonic lodge, owning its own building be exempted from state, county and town taxes? If so, how can this be accomplished?

This question opens up the entire field on the question of the exemption of fraternal orders' property. It is possible that a Masonic lodge might be so circumstanced that it would be, or its real property would be, exempt from taxation. However, the tax department has yet to find a case where a subordinate lodge, in our opinion, is exempt from taxation.

In the mills or factories of a certain city are installed so-called transformers. Assume they are owned by the local public service corporation. Are they in the class of fixtures assessable as an item of real property, or would they be classed as personal property?

At the outset, let me state that this is another borderline question. The commission in the past has taken the position, in view of the fact that the courts have not passed upon it, that transformers were real property, under subdivision 6 of section 2 of the tax law, wherein it is provided that all supports and enclosures for electrical conductors, etc., for the purposes of taxation are real property. Unless these transformers can be brought within the principle laid down in the Feitner decision, rendered in 99 Appellate Division, and affirmed by the Court of Appeals, they are real estate and properly subject to taxation as such. I might say that in that particular decision the courts held conduits and switches, which extended from the mains of a public service corporation on to the private property of an individual consumer, not to be real estate belonging to the public service corporation. Now, it is a very nice question as to whether you can say that these transformers fall into the same class for purposes of taxation as the switches and conduits under that decision. I would say that when this question comes



up, the assessors should write to the department, submitting all the facts, and we shall endeavor to give you our best judgment.

We have a farm situated on town line, with house in one town and the other buildings of farm in the other town. In which place should he pay school tax?

The assessors of each town will assess so much of the farm as is within their respective towns, and unless the district in which the farm is located be a joint school district, the owner will pay school taxes in two school districts. If the property is situated in a joint school district, of course he will pay it in the one.

Is the equipment of a telephone exchange assessable? If so, how is it placed upon the assessment roll? Under what head?

The department has held in the past that switchboards, if located in a building leased or owned by the company, are real property, and assessable as such to the telephone company. The equipment, if it consists of attachments to the switchboard, would also be subject to taxation as real estate. Desks and other such furniture would be personal property, of course, and subject to taxation as provided in section twelve of the tax law.

Our town made a gain in the assessed valuation of 36 per cent in 1923. Do we get any benefit from it in the special franchise in 1924?

The name of the town in this case is not given, so that we were unable to look up the data in connection with it, but if the full value of the special franchises in the town remains the same in 1924, then it is reasonable to assume that the town will gain because of this increase.

Will the tax commission make an official visit to Broome county this year?

Yes.

What should a modern greenhouse be assessed at per square foot?

That question, we can't answer. There is no formula or mathematical table that we could possibly construct to guide assessors in that regard. It may be that the assessor who asked this question, needs to inquire of the owner of the greenhouse for an itemized statement of what it cost to construct the greenhouse; what it would cost to construct it now, to inquire of builders and others who may know the cost to ascertain the rates of depreciation.

COMMISSIONER GRAVES: I shall not consume words, gentlemen, in introducing the speaker. He is a man who knows less about assessing property locally than you do, but he thinks clearly, sees clearly and talks the way he thinks and sees. It gives me great pleasure to introduce to you, His Excellency, the Governor of the state of New York. (Applause.)

HON. ALFRED E. SMITH: *Mr. Chairman and Delegates to the State Tax Conference.*—The tax commissioner is entirely right—I know probably less than anybody living about assessing property, and, for that matter, I know very little about taxation,—but I never knew a governor that knew everything. He well fills his job when he secures for the state the services of those men who do know it. (Applause.)

I haven't had much occasion to know anything about taxes, because I seldom ever pay any myself. I never had income enough to pay a tax until I went into the trucking business, (laughter and applause), and when I left the trucking business to come back to Albany, as governor, I found myself in the peculiar position of being obliged to give my first year's salary as governor as the tax on my last year's salary as a truckman. (Applause.)

But income and money isn't everything. We certainly can't take it out of the world with us, and it isn't always made the best use of by people. There is no more important



question that the governor, from time to time, is called upon to deal with, than this question of taxation. It is what makes the machine go. It is the fuel oil of the government. It is always resented. It is never popular, no matter how it is distributed, but you can make it as nearly popular as it can be made when you can assure everybody that it is just and equitable. (Applause.)

Our people generally do not pay sufficient attention to the question of taxation. The man that does not own a piece of realty seldom, if ever, appreciates he pays any part of the taxes. It wasn't until we were confronted with the situation in New York city of a housing shortage, that any considerable number of people began to realize that the assessment against real property was figured in the overhead cost of carrying it, and was assessed back against the rent payer. So what we need is a little better understanding, among the rank and file of our people, of the undisputed fact that in the last analysis—taxation is levied against everybody, and not against the man who holds title to the property.

I read by the program that the mayor of Albany extended the greetings of the city to you. Of course, I am only a temporary resident, and even though I read by the morning papers that New York is under a foot and a half of slush, I am going down there to-night, because it looks good to me—slush or no slush. (Applause.) And, I cannot, therefore, extend the welcome on behalf of the city of Albany. I can, however, on behalf of the state, and I thank you in the name of the state for the time and effort that you are putting into your jobs; and I hope that your labors will result in a more complete and proper understanding with the State Tax Commission for the important problems you are to consider, and I thank you and welcome you on behalf of the state itself. (Applause.)

MR. GRAVES: I don't know as I can do any more on the greenhouse proposition. If it was green goods, I might.

What can the assessors do with a farm that is sold for from two or three times what it is worth. Buyer stays one or two years then leaves. Can't make a living, leave out taxes, etc. We have from eight to twelve farms sold for taxes each year. County gets most of them. How can the assessors arrive at value on them. What is the remedy?

The only way the assessor can arrive at values is by inquiring about the value of the property from those in the town who knows its value, unless the assessor himself knows it. Don't understand this commission as asserting to you that you should always assess a piece of property for what it sold for. You should give serious thought and attention to the sales price, because presumably that fairly represents value, but you are not bound by it. You may make an assessment higher or lower, dependent upon what your judgment is, after you have investigated the facts.

If a piece of property is left off the roll and is not discovered until after delivered to the collector, can it be placed on the roll next year for two years' taxes, and is there any other method to obtain this tax?

Yes, it can be placed on the assessment roll next year for two years' taxes; there is no other method of handling the transaction; but on the point of including it on next year's roll, remember that you, as assessors, must establish a valuation for the omitted year, which may be greater or less, or the same, as the one you fix for the succeeding year. Get that thought—you don't just put two years' taxes against one year's assessment. Your minds must function on what the value of the property was in the year it was omitted, and second, you can't extend two years taxes against it at the rate of tax for the second year. You first have to fix a valuation for the omitted year, and then when the board of supervisors puts a tax against it, it is at the rate for the



omitted year. I might also add what this question doesn't call for, that had the omission been discovered by the board of supervisors before the warrant was affixed, and the roll delivered to the collector, it would not have been too late to insert it on the roll of the omitted year.

Has a corporation or individual a right to keep out or off their premises an appraiser, hired by the board of assessors for the purposes of appraising property that the assessors did not feel competent to appraise?

The question is one which has never been passed upon by the courts. Obviously, the assessors themselves, and the appraiser employed by them, cannot forcibly enter a piece of property. Whether or no a court would issue an order compelling the owner to allow you to enter, I cannot say. I would say it is about a fifty-fifty chance. The better method, the one which we would advise, would be this: In such a case, put an assessment on the property sufficiently high so that the owner will feel compelled to come around on grievance day and kick about it. (Applause.) On grievance day you can put him under oath and examine him and cross-examine him to your heart's content. You may ask for all data and information relative to the property which your appraiser would acquire if he personally went into the property. If you are not content with the testimony of the owner, you can subpoena witnesses, people who know about the property, and thereby get the information upon which you can exercise judgment as to the value of the property.

What section of tax law would have to be amended to compel those in charge of assessors to provide their transportation for them when in their field work?

This could be accomplished by amending section 85 of the town law, or by including a new section in either the town law or the tax law. It is a matter of—using a baseball term—“fielder's choice.”

In assessing oil wells at a certain value per barrel of production are not the assessors taxing the income of the producer and thereby exceeding their rights? Would not the reproduction value of the driven well itself less depreciation (and obsolescence if a dry hole) be a more equitable basis of assessment?

I suppose I ought to ask our friend, Mr. Elwell, from Wellsville, to answer that, but just to show I know something about the oil game, I will try it. The valuation based on barrel production is entirely justifiable, because those of you who live in an oil country or have been in one and have experience, know that leases are bought and sold, not on the number of wells, not on the number of acres, although that may be an influencing factor if it is undrilled territory, but upon oil production, upon barrel production. Take up in Allegany and Cattaraugus county, among oil men, if you have a lease and want to sell it, they will want to see your pipe line statements, and if you have ten barrel production they will figure it is worth thirty or forty or forty-five hundred. The value fluctuates as the price of oil goes up and down. What they have done, whether they intended it that way or not, is to arrive at the fair market value by ascertaining the production, and then multiplying that by the price which the product is usually bought and sold for in that territory. It no more taxes the income of the oil producer, than placing a real estate tax on an office.

MR. GRAVES: Mr. Cole will now answer questions 43 to 47, inclusive.

MR. COLE: I don't know just what Commissioner Graves intended to convey by the remark he made in answering the last question he handled, but it seems to me that at this particular time in our country's history, it takes a whole lot of courage for a man to stand up and say he knows anything about oil. (Applause.)



What is your suggestion how the assessor is to receive his just compensation for his services?

The town board of any town, or the county board of supervisors has authority under the law to fix the compensation of town officers at not less than three nor more than five dollars per day. If the compensation fixed is less than the maximum of five dollars per day, and is deemed inadequate, the matter should be taken up with the town board or board of supervisors. In order to receive their compensation assessors should present an itemized claim to the town board at the rate per day which has been fixed. If the claim is justified, the town board or board of auditors will allow it as a charge against the town, but should the claimant be dissatisfied with the audit, his remedy is to review the same by a certiorari order.

Is a portable saw mill assessable as real estate? That is one of the difficult questions we get. It calls for the exercise of good judgment, and the application of common sense on the part of the assessor. I am going to answer it in this way. No, not ordinarily. Portable saw mills should usually be assessed as personal property if owned by an individual or a partnership.

Property extending from one road to another with gatehouse at both roads, and both entrances used, one road is in school district No. 2, other road in school district No. 7, which school district should it be assessed in? School tax in one district is \$1 per thousand, other \$12 per thousand?

That is controlled by the education law. Now, if the entire property is assessed as one parcel on the town assessment roll, it is taxable for school purposes in the school district in which the occupant resides. The occupant ordinarily would be the owner of the property as distinguished from his servants or employees, assuming that the owner resides on the property. If the land is owned by a non-resident of the tax district and is not occupied by an agent,

servant or tenant who does reside in the district, the portion situated in each school district is to be separately valued therein.

In relation to special districts, a lamp district extending along state road of farm property, house and buildings extending back and part of farm further back, what part of farm is assessable in the special district or is all of it; also the same condition for a sidewalk district?

The town board or other proper authority lays out the boundaries of the special districts and only that property which is within the boundaries of the district should be assessed. Taxes of that character are assessed upon the property benefited by the improvement. In some cases the line of the district will cut through a parcel of property and in others the entire property will be included.

To whom shall the assessors present their account for their expenses?

That is kind of a natural question. I presume it refers to the expenses for attending this conference. Town and city assessors will present their claims for expenses, actually and necessarily incurred in attending this conference, to the boards of supervisors of their respective counties. There is no per diem allowance, payable by the county for this conference. Village assessors, if there are any present, will not present their accounts to the county, and whether or not they are to be reimbursed for their expenses will depend upon action taken by their respective village boards.

MR. GRAVES: The tax law provides that the expenses of town and city assessors for attending this conference shall be a county charge, and bills covering those expenses should be audited by the county board of supervisors. Now, it may be, that a board of supervisors will refuse to do what the law says it shall do. That is an unfortunate situation. The remedy for it is to obtain a proper writ from the court to review the action of the board of supervisors, and thereby



cancel payment. Payment of these expenses can be compelled.

MR. COLE: Why should each tax district be in a contest with the rest of the districts in the county or state?

It is hard to understand just what was intended by that question, but tax districts should not be in a contest with other tax districts of the county or state, and we have no understanding that they are.

MR. GRAVES: Let me assure you, gentlemen, we shall adjourn promptly at 12:30, if not sooner. At this stage in our proceedings, I wish to recognize Mr. Whitney, chairman of the Nominating Committee of the State Tax Association, who wishes to make his report. Mr. Whitney.

MR. WHITNEY: Mr. Chairman, on behalf of the Nominating Committee of the New York State Tax Association, I desire to present the following report of nominations for officers and recommend the election by the Association:

The retiring president is former Senator Mills, now Congressman Mills. His duties at Washington will prevent his continuance, and therefore the committee has suggested that the present officers be moved up one notch each, and we, therefore, suggest for president, Mr. Charles J. Tobin, of Albany, whom you all know, and who has been connected with the State Tax Commission, and a practicing lawyer in this city. For vice-president, Hon. John J. Merrill, tax commissioner; Francis N. Whitney of New York; Franklin W. Judson, Monroe County; former chairman of the assembly committee on taxation. I hesitate to suggest my name, but I think a second vice-president is purely ornamental so I am not getting quite as much as would appear.

For the office of secretary and treasurer, Lewis K. Rockefeller of Albany. Mr. Rockefeller is associated with the tax commission here in Albany, and will be able to render very valuable services in connection with the association and

these conferences, and we sincerely hope that Mr. Rockefeller may be elected.

For the executive committee, we find it is necessary to secure three classes whose terms expire in 1925, 1926 and 1927. We have suggestions:

For executive committee, terms expiring 1925: William Whitaker, supervisor, Sullivan county, town of Fallsburg, N. Y.; Joseph P. Broderick, commissioner of equalization, Erie county, Buffalo; Henry P. Tuthill, former county treasurer of Suffolk county, Mattituck, N. Y.; Mr. H. Wheeler, assessor of the town of Covington, Wyoming county.

For the executive committee, terms expiring 1926: Isaac P. Vance, assessor, town of Potsdam, St. Lawrence county; Edward G. Hunt, commissioner of accounts, Saratoga; Hon. John F. Gilchrist, president State Tax Commission; Timothy Murray, commissioner of assessments and taxation, Yonkers.

For the executive committee, terms expiring 1927: Elmer Wood, supervisor, town of Broome, Schoharie county, N. Y.; Martin Saxe, New York city, former president of the State Tax Commission; William E. Hannan, legislative reference library, Albany, and William H. King, assistant corporation counsel, New York city.

Ex-officio members: E. R. A. Seligman, former president of the association; Hon. M. J. Walsh, former president of the State Tax Commission; A. E. Holcomb of New York; Hon. J. S. Schwab, former member of the State Tax Commission and Hon. Walter H. Knapp, a former member of the tax commission.

Mr. Chairman, I move the election of the officers as presented by the nominating committee.

A Voice: Seconded.

MR. GRAVES: It has been moved and seconded that the report of the nominating committee be accepted, and the names read to you duly elected. Do I hear any opposition



or any remarks? If no, those who are in favor will please say "aye." Contrary, "no." The motion is carried.

MR. GRAVES (reading questions):

A 1923 tax has been returned to a village board unpaid. Do the 1924 assessors have anything to do with that tax?

No.

We invite attention to the mercantile industry known as "chain stores." Many such stores are located in towns and cities where fire, police and other protection is enjoyed at no expense to the owner. These stores are owned by large corporations which can well afford to pay for the cost of such protection. May we not instigate the enactment of legislation which will require such corporations to bear a proper share of the tax burden?

Those corporations do now pay taxes in respect of that business. Whether it is a proper, or an adequate or appropriate share, I am not prepared to say, because I have not the figures before me. These chain stores which are incorporated, render reports to the State Tax Commission, and pay  $4\frac{1}{2}$  per cent on their net income to the state. The law requires the state to then return one-third of it to the locality, so the city, from which this question emanates, is getting some tax from these corporations. Whether or not it is adequate or whether the man proposing the question and I can agree on what is adequate, I can't say. The thought I want to leave with you is that all of these chain stores and incorporated mercantile concerns, against whom you cannot place an assessment, because of the merchandise on their shelves, are nevertheless paying taxes, and the city and towns and villages where they are located are getting one-third of the tax that they pay.

How would it do to ask the farmers to meet the supervisors and town board and assessors and assess their own property? Could we, in your opinion, get anywhere? (Applause.)

I don't think that question is entirely foolish or silly, myself. I believe there is a whole lot in this idea of cooperation concerning which Mr. Elwell spoke yesterday. If I mistake not, Mr. Elwell, back a few years ago, when he was starting it, and, like the governor, didn't claim to know a lot about the assessing game, did call the farmers together. I wonder if you will tell the gentlemen—about three minutes—what you think about this question, Mr. Elwell?

MR. ELWELL: Just exactly what we did. We did not take in the town board, but we took in the supervisor and the assessors and called our farmers all together, in fact, the property owners in general. They all entered into it with the same spirit of fairness that we did. We were trying to get the real sound value of the property. We got it. And for four years we have stood the acid test of this state board of taxation here. We are still there and we are perfectly satisfied, and we have proved it out there, and we are paying less tax. Now, I don't mean to say that there aren't a few people in our community but what are paying more tax. You take a man who was on the roll for \$25,000, with a concern that was making \$240,000 a year, which they did the year before—net earnings, and paid a three per cent income tax, and shook the check in my face, backed by the comptroller of this state—Mr. Travis. He said we were going to drive him out of town, we didn't realize the amount of tax he was paying. "I paid that income tax" and it wouldn't take a great while to compute what that income was at three per cent. He made a clear net profit of \$240,000, and was on the tax roll for \$25,000. Their school tax in district 1, if I remember it, was \$285 or \$287 in 1918. Last year they paid \$3,644 school tax in the same district. Who is going to pay that? We had to raise \$74,000 in money in that district. Now, if they hadn't been made to come in on that roll at their real sound value, then you fellows that were on the roll, no matter what you



were on the roll at, would have to make that up, the difference between the \$287 and the \$3,644, that they paid this year, but we have tried this out and are perfectly satisfied with the proposition. We have accomplished it through this cooperation, of bringing every man in and letting him have something to say about his own affairs. You can't convince me—if you kept at me for the next three or four hours, if you kept at me every minute, that that isn't the just method to pursue. There is no excuse for assessing on 75 or 65 per cent of the value. No excuse for it at all. The law says to put the property on the books at 100 per cent of its true value. You take a vote today on the Volstead act, and 98 per cent of you men get on your feet to uphold it, because it is the law, and your tax law is just as plain as the Volstead law, just exactly, and why not live up to it?

Is it reasonable to tax the holder of mortgaged property beside paying the interest on mortgage, which together amounts to about nine per cent?

Put simply, this inquiry looks toward the thought that because a piece of property is mortgaged, the owner's equity is thereby reduced, and he should be assessed for little or nothing on the property. We do not think that it is unreasonable to tax mortgaged property the same as other property is taxed, and I wonder if the man who asked the question had stopped to think that if mortgaged property was not taxed, we wouldn't be collecting a dollar of taxes from any railroad or trolley line in the state of New York, and not much of anything from any other public service corporation.

A willing seller and a willing buyer, neither compelled to sell or buy, may both be "willing" to pay and to accept two or three times the real value of a given property. Does such a sale establish the assessable value of such a property or affect the value of similar contiguous property?

Well, at the outset, let me express the belief that "There ain't no such sale—there ain't no such animal." But, if the assessors, upon their investigation, find that the property was sold for more than its value, obviously, they should ignore the sale price, and assess it for its fair market value after they determine it. As I have said before, sale figures are important and should be given due weight in arriving at your decision.

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The following questions were placed in the question box but time did not permit answers being given at the conference. The answers are included in these proceedings as a matter of record and for the information and instruction of all who may be interested in the subjects discussed.

Q. The Mamaroneck board has been in correspondence with the tax department on the question of the value of old buildings for the purpose of assessment, and has received the department's interpretation of the law, in substance as follows: "All buildings should be assessed at the cost of replacement, in the case of old buildings considering the depreciation. The labor cost that entered into the construction of the old building would have no reference to the construction cost of today. Such costs should be based upon the cost of labor as of June 1st, in the year of the assessment. Any sort of betterments to real property add to its value, while neglect reduces its value." Just what is meant by "replacement value?" The substitution of a new building of equal size and character for one that is worn out? The substitution of high priced labor for the labor cost of years ago? The substitution of modern materials for those which may not now be available? We contend that replacement should be IN KIND, which, as we construe the words means second-hand material badly damaged, and labor of the kind and value that went into the building of the long ago, literally introducing kinds of material that do not exist today



and labor of a grade that is not obtainable today. Disregarding the vast difference in conditions prevailing today as compared with say fifty years ago and considering only for the purpose of this argument the subject of "depreciation," does not that depreciation take place year by year? Is it not a practice to "charge off" a percentage of cost in determining values year by year? Has this old building, in view of the above facts, anything like the value of a modern structure of the same size and character built under modern conditions? Does the addition of a coat of paint occasionally "add" to the value, or simply help to sustain the existing value whatever it is? Can the value that has been "charged off" be restored by a coat of paint or necessary repairs? If the contention of the tax department is sound, then it is the policy of the department to penalize a man for keeping his property in good condition, and if he wants to escape taxation he should omit repairs and painting and let his property depreciate. You leave only his pride as a motive for the preservation of property.

A. You evidently have misunderstood the information furnished by the State Tax Department. It is not the fact that all buildings should be assessed at the cost of replacement, less depreciation. All property is required to be assessed at its fair market value or what it would bring on a sale between a willing seller and a purchaser willing and able to purchase. The cost of replacement of a building, with allowances for depreciation, is a factor which would be considered by a party who desired to purchase, and should be given consideration by the assessors. In the case of properties of railroads and public utilities, and certain large properties which have no readily ascertainable market value, the fair market value can best be arrived at by ascertaining the cost of reproduction as of the date the assessment is made, and deducting from such cost a fair amount for depreciation, both structural and economic. It is not the policy

of the tax department, or of the law to penalize a man for keeping his property in good condition, nor does this result when property is assessed at its fair market value. The man who keeps his property in good condition can sell it for more than the man who lets it go to ruin, and for this reason, his wealth is the greater. It is necessary to tax the thrifty and taxes must be collected from those who have property. A tax against persons who have nothing would be without effect as it could not be collected.

Q. In lower Westchester, practically the entire surface of the land has been changed by new subdivisions and re-subdivisions. Our maps are covered with new lines and it is difficult to trace out properties for separate assessment. The title companies and loaning institutions require from the sellers of these plots a survey showing the metes and bounds and the courses and distances, and in cases, buildings, identifying the properties by locating the nearest corner or fixed point. The titles are insured and loans made on the basis of these surveys. Sometimes we can get copies of these surveys upon request, but not always. Would it be practicable to have a law passed compelling sellers or buyers or the title companies to file with the town assessors copies of the maps furnished? The cost would be trivial to the parties in interest, but the result would be valuable to the assessors.

A. If the point you raise is not covered by section 334 of the real property law, which requires the filing of maps of subdivisions with the county clerk and the city, town or village clerk, there would appear to be good reasons why a law, such as you suggest, should be passed. If these maps are now required to be filed with the county clerk and the city, town or village clerk, the assessors should have no difficulty in obtaining access to them. This is a matter for the legislature to consider.



Q. If there is no school in a district, does it exempt a property owner from school tax?

A. It may, or it may not. If there are no children in the district, and no expenditures for school purposes, there will be no tax, but if the children are sent to a school in another district on contract, or if there are expenses in connection with the school building, then there will be a school tax sufficient to cover the contract price or the other expenses.

Q. Pool rooms pay a license for the privilege of doing business; does that license render the tables untaxable? Automobiles are licensed by the state, and the car is itself untaxable.

A. No. Pool tables are tangible personal property and when owned by an individual or partnership, the value thereof should be included in determining the assessment for personal property against such individual or the members of the partnership. The law is different in this case than in respect to automobiles which are exempted from general property taxation by the payment of a license fee.

Q. A garage situated at the junction of two state roads has been sold for \$15,000, with two cars, tools and equipments, as personal property and good will. The building and lot cost about \$3,000; assessment last year, \$1,600. What is full value assessment? House and three acres sold for \$3,000 with personal property sold under contract. No money changed hands. Assessed last year for \$900. What is full value assessment? Farm 41 acres sold at partition sale for \$3,950. Buildings old and out of repair. This has been a tenant farm. What is full value assessment?

A. It is impossible to state what should be the full value assessments against these properties, as sufficient facts are not given. The assessors should exercise their best judgment in determining the full values, taking into consideration all of the available facts in relation thereto, including the sales

price. It is always necessary to analyze sales data in order to determine the weight to be given to the sales price.

Q. I wish some advice. We have in Warsaw a 55 bed hospital. About one-third of this hospital has just been built by public subscription; the other part is built and is owned by myself. The new building has been incorporated as the Wyoming County Community Hospital, with a board of 21 trustees. Now, that there is a new hospital, everyone feels that this corporation should have charge, not only of its own building, but also of the one I built. Consequently, I have offered the use of all my property including the nurse's home to the new hospital corporation free of charge. I was wondering just how this should be done. It seemed if I rented my property for one dollar per year it would be satisfactory. I wish to know whether or not the property would then be taxed. If so, I would have to pay the tax, although it would be part of a general hospital, run for charitable purposes, and not for gain. I would agree to pay all the insurance, up-keep and other charges as a means of helping the new hospital to prosper. Kindly let me know what I should do.

A. In order to be exempt from taxation, real property which is used exclusively for hospital purposes must be owned by a corporation or association organized exclusively for hospital purposes. In this case, if the real property continued to be owned by an individual, it would be subject to taxation notwithstanding that it was used by the Wyoming County Community Hospital. To obtain exemption it would be necessary to transfer title to the hospital corporation.

Q. Here is a statement I would like to hear someone say something about, and try to overcome. Why is it the custom of most all citizens, when anyone that owns a home and wants to improve it, such as painting, building a porch, or a new fence, or any other thing that will improve your property, the assessor comes around and up goes your taxes?



A very poor thing to encourage anyone to do much to improve. I don't know as they do that in all cities, but I do know they do it in some. See if you can say something to overcome this, so we can fix up without our tax being raised?

A. The law requires that all property shall be assessed at its full market value. If an owner improves his property, it becomes more valuable, and therefore the assessment should be increased. It is fair that every property owner should pay according to his means as evidenced by the value of his property. The owner of a mansion on a large valuation, and the owner of a humble cottage on a small valuation.

Q. Should farm tractors be assessed by the local assessors?

A. Farm tractors are tangible personal property and when owned by an individual or partnership should be included in the value of the personal property owned by such individual or the members of the partnership in arriving at their personal property assessments.

Q. Should residences on state land taken for barge canal purposes be assessed? The same are owned by individuals.

A. In certain instances, when the state purchased land for barge canal purposes it did not purchase the building, but permitted same to remain upon the land with the understanding that the owner would remove it at any time the state might wish it removed. In these cases the buildings should be assessed as real property and the owners of the buildings should pay the taxes.

Q. Four individuals hold title to a farm in the town of Lysander, Onondaga county, New York, as trustees for the use and benefit of a military organization known as Battery A, 104th Field Artillery, which is a military unit. There is a claim of complete exemption from all taxation made. Can this farm be taxed by the town, village or school district or any of them? If exempt from taxation in whole or in part, on what theory and under what law? What would

be the effect if the trustees held for the use and benefit of a separate corporation known as the Battery A, Auxiliary, a social adjunct to Battery A?

A. This question was submitted to the State Tax Department under date of August 31, 1922, and an opinion was given on September 7, 1922. You should consult this opinion, which is to the effect that the farm in question is exempt from taxation providing it is not operated for profit. The affidavit of the president of the association owning the property indicates that the title to the property is in the association, and not in trustees. If his affidavit does not correctly state the facts, you should communicate with the tax department, and the question will be reviewed in the light of the changed conditions.

Q. Are dormitories of a university of learning, such as Colgate University, which are wholly rented to students, and for which the university receives rent, taxable or should they be exempt from taxation?

A. Ordinarily the dormitories of a college or university, when owned by such college or university, form a part of the articulated system of the institution, and are deemed to be used for educational purposes, so as to be exempt from taxation under the provisions of subdivision 7 of section 4 of the tax law.

Q. In case of a farm situated wholly within a town, but partly in each of two school districts, where an electric line crosses the farm, and a part of said line is in each school district, we assessed the whole of the land and the power line in the district in which the owner of the land lives. Was the power line properly assessed?

A. Under the education law the entire farm is taxable in the school district in which the owner resides, but under the provisions of section 40 of the tax law it is the duty of the town assessors to apportion the valuation of the power line among the school districts in which it is situated. The



apportionment so made should be entered in part 4 of the assessment roll.

Q. What is the best way of arriving at real values of railroad companies' property? And on what basis should values be computed, on present day costs of construction, allowing for depreciation, or cost of construction at pre-war prices? Will the same rule apply to values of real property of manufacturing corporations?

A. Under the decisions of the courts the proper method of valuing the real property of railroad companies for purposes of local taxation is to value the land the same as the adjacent land is valued, and to add thereto the cost of reproduction of the road with allowance for depreciation, both structural and economic. The latest decision of the courts is that in determining reproduction costs, present day prices should be taken. This decision has been appealed, and the question is now before the Court of Appeals. The tax commission, in the past, has deemed it fair to take average costs over a period of ten years, except where the present day cost is under this average, thus making an allowance for abnormal conditions during the war. Generally speaking, the same method should be applied in valuing the real property of manufacturing corporations. Railroad and manufacturing properties are such that it is very difficult for the average assessors to determine a proper valuation and it is better that the assessors seek assistance from an engineer. The tax commission will furnish an engineer to appraise such properties without cost to the town or, under section 170 of the town law the town board may employ an engineer.

Q. Does not 100 per cent assessment invite extravagance by the community in view of the fact that the state fixes limit of bonded indebtedness of the town or county?

A. It is not the duty of assessors to regulate expenditures or the creation of indebtedness. These functions are

vested in other officials and in the people themselves. The duty of assessors is to obey the law which requires the assessment of property at its full value. Inasmuch as the debt limit of counties and of towns is 10 per cent of the assessed valuation, and by the assent of a majority of the electors the debt limit of a town may be increased to  $33\frac{1}{3}$  per cent it would not seem that assessment of property at its full value would have any material effect on the debt limit. In a village it is possible to incur an aggregate indebtedness amounting to  $53\frac{1}{3}$  per cent of the assessed valuation of real property, and even this limit may be exceeded if the village happens to be part of a common school district.

Q. What advantage has 100 per cent assessment over 50 per cent or any other given uniform percentage of full value?

A. The law requires full value assessment. If uniform assessments were made at some given percentage of full value the amount of tax which each property owner would pay would not be affected but it would be extremely difficult to obtain proper results or anything other than a full value basis as it would be necessary to first determine full value and then apply the reduced rate. Possibly all business could be conducted on the basis of 50 per cent values, but try to imagine the confusion which would result. Anything other than full value would prove impractical.

Q. There is great dissatisfaction at the present time with assessors, some towns last fall turning down whole boards. The trouble is the assessors have been raising the assessments nearly every year which to some extent was just. But in quite a lot of places back hill farms are assessed for quite a larger amount than they would sell for today. The rule has been to give a town a 15 per cent or 20 per cent raise, nearly every lot getting the same per cent, while the fact is a good many back hill farms on poor roads have lost their selling value. The young men, and many of the older



men, have moved to town to work in shops or on state roads. Perhaps a little hay will be cut, or a few young cattle turned in the pastures; and in a number of cases nothing at all is done. Quite a lot of these farms have good buildings, but they are going down fast. Now if the assessors should cut the valuation on these back places to 80 or 90 per cent of what they would sell for cash, today, people in the towns and cities and state road farmers would say they are crazy. In fact, it does not seem possible to do it. Still the value is not there. For example; farm No. 1, 124 acres, sold a few years ago for \$2,000. Assessed today \$1,540. A mortgage of \$1,000 on it. Man that held the mortgage died, estate wanted the money, so owner applied to Federal Land Bank for a loan of \$1,000. When the appraisers came and looked it over, and other farms around, they said they did not believe there was any sale for land on these back roads, and they would only value it at \$1,000 and would loan only \$500 on it. The owner had an auction in December, 1923, and sold all stock, crops and tools to pay up what he could. Tried to sell farm at auction and at private sale, \$1,300 is the best offer he has had. Farm No. 2, bought 10 years ago for \$1,500, assessed today \$1,200. Good buildings. Owner went to city to work. Farm does not bring in enough to pay taxes and insurance hardly. Owner wants to sell but could not get over \$1,000 for it. Doubt if it would bring that. Now there are these same conditions all over the hills. Farms for sale for less than it would cost to build the houses and barns and no takers. Now, as I understand, several former assessors of this and other towns say their instructions have been to raise assessments. Get them up to 100 per cent. But what are we going to do with lots of back farms that are, and have been for some time, assessed clear above their present value? I think there are a good many such cases scattered over the Allegany hills.

A. All real property is required to be assessed at its full value as determined by a majority of the board of assessors. If a majority of the board is convinced that back hill farms have been valued too high in the past, or that changed conditions have decreased the value, such farms should be assessed at what they are worth today, and it would be manifestly unfair to continue to assess them for more than they are worth. The market value of such farms is the price which they would bring on a fair sale between a seller willing but not compelled to sell, and a buyer, willing and able but not compelled to buy. One of the greatest evils in connection with local assessments at the present time is that there are so many inequalities in the assessment of properties within a given tax district. Assessors must be men of backbone and are often called upon to show their courage in doing what is right and fair, even though it may not meet with the approval of some of their constituents. In the long run, assessors who do their work honestly and without fear or favor receive the approbation of the people they serve.

Q. We have in the city of Binghamton, a parcel of real estate owned by the United States government. The government leases the buildings on this plot to a local corporation which in turn, sublets and collects rentals of a substantial amount. As a result of public request the buildings were assessed. The lessee declined to make payment of the resultant tax. Since the city is unable to give title, the property cannot be sold. The particular question is whether or not there is any means of enforcing collection of this item.

A. Real property owned by the United States is not subject to taxation even though the buildings are leased. There are no means of enforcing collection of a tax levied against property of the United States. A bill is pending before this year's legislature which seeks to permit an assessment against the vendee where property is sold by the United



States on an executory contract of sale. If this bill passes it may apply to your situation and bring relief.

Q. If a piece of property is left off the assessment roll for several years by former assessors and the present assessors put it on the present assessment roll, can any taxes be collected for the years it was not on? If so, how many years back?

A. Under the provisions of section 34 of the tax law assessors may enter upon the assessment roll of the current year any property which was omitted from the assessment roll of the preceding year, but such property must be valued as of the preceding year or if not then valued at such valuation as the assessors determine for the preceding year. The tax to be levied will be at the rate of the preceding year. There is no authority for going back further than one year.

Q. How would you assess a farm of about 40 to 50 acres, poor buildings, now assessed for \$3,500, owner wealthy, not depending on farm for a living, refusing an offer for \$12,000; farm valuable for sand and right of way?

A. At its fair market value. In determining the market value the assessors are not limited to the value of the property for use as a farm but may take into consideration that use and any other use to which the property may reasonably be put.

Q. Where a man has two pieces of property adjoining, each in a different school district, and wishes them assessed together, can the assessor do so and put the combined property in which ever district he sees fit?

A. Where the owner of two adjacent parcels of real property operates them as one proposition, as for example, two farms which are consolidated and operated as one farm, it is proper for the assessors to assess the entire property as one parcel. The town assessors should enter on the assessment roll the numbers of both of the school districts in which the consolidated property is situated and it is the duty of the

school authorities to determine in what school district the property should be assessed. Where land lies in one body and is occupied by the same person, if it be assessed as one lot on the last assessment roll of the town even though situated partly in two or more school districts, it is taxable in the school district in which the occupant resides.

Q. In case of misrepresentation by owner to get assessed value lowered, would trustee of school district have any right to place that property back to its former value until the assessors meet for another year?

A. Under section 413 of the education law school trustees have authority to ascertain the true value of the property to be taxed in a case where an error, mistake or omission on the part of the town assessors shall have been made in the description or valuation of taxable property. It is possible that the school trustee could proceed under this provision, but it is suggested that before taking action the matter be referred to the education department for an opinion, as the education department administers the education law.

Q. Should all steam railroads be assessed at the same rate per mile (double track) aside from land values, buildings, signal towers, etc.? Where is the rolling stock assessed?

A. No. Many elements are to be considered in determining the value of steam railroads, including the gauge, weight of rail, type of construction, cuts, fills, kinds of ballast, etc. The proper method is to determine the cost of reproduction and make allowance for depreciation. Rolling stock of a railroad is assessed in the tax district where the principal office of the railroad is situated in accordance with the provisions of section 12 of the tax law.

Q. Does the law require the town assessors to give the number of the school districts in which each parcel of property is located?



A. Yes, the assessment roll, if properly prepared, contains a column in which the number of the school district is to be entered.

Q. A farm of 150 acres assessed for \$15,000 has been sold for golf links for \$35,000. In your judgment should the assessment be raised?

A. It is impossible to determine property values without knowing all of the facts and inspecting the property. It would seem likely that in the case you mention an increased valuation would be justified but this is a matter for the assessors to determine.

Q. I would like to ask what the State Tax Commission would consider the value of an electric light and power line (3 wires) outside the highways and public places would be assessed at per mile?

A. The State Tax Commission cannot value properties without an examination of the same. If you desire the commission to send an appraiser to go over this property and furnish a valuation you should notify the commission in writing to that effect and this service will be furnished without charge to your town.

Q. Keuka College on Keuka lake, town of Jerusalem, Yates county, has a college building, a farm of about 50 acres, and beside eight houses and lots, they own 146 vacant lots, with a total assessed valuation of approximately \$73,000. They claim exemption on property to the value of \$62,000 leaving them around \$11,000 worth of property to pay tax on. What part of said property should be exempt from taxation? There is a district school on the campus. Should they pay school tax on the full amount?

A. This question does not give sufficient facts to permit of a definite answer. Generally speaking, real property owned by an educational corporation which is used exclusively for educational purposes is exempt from taxation for

all purposes including school purposes. If there is a question as to whether or not certain of the property owned by Keuka College is used exclusively for educational purposes a detailed statement of the facts should be submitted to the tax department and an opinion in writing will be furnished.

Q. This is a farm, the lot number is 101; it has been listed as lot 85; does this error exempt it from taxation?

A. No. Under section 54 of the tax law the board of supervisors at its annual meeting may correct the description, or under section 88-A of the tax law the county treasurer may reject the tax whereupon it may be reassessed in the succeeding year or if the county treasurer does not reject the tax, then under section 89 of the tax law the supervisor should furnish a correct description.

Q. What is the value of No. 12 copper wire per 100 feet?

A. The present cost installed of Brown & Sharpe No. 12 triple braid insulated copper wire, such as is used for the transmission of electric power is \$1.83 per 100 feet. The present cost installed of Brown & Sharpe No. 12 copper wire, without insulation, such as is used for telephone and telegraph lines, is 57 to 66 cents per 100 feet. The present cost installed of New British standard No. 12 copper wire, without insulation, which is also used for telephone and telegraph lines, is from 95 cents to \$1.10 per 100 feet. The more satisfactory way of obtaining valuations of public service corporation property is to have an appraisal made by an engineer as conditions vary and each particular line should be inventoried and valued separately.

Q. A residence in a village, costing a few years ago \$12,000 to build was recently put on the market and sold for \$4,000. What would the assessors be justified in assessing it at? This is a case of a willing seller and a willing buyer. Another case in the same town, a small house and lot sold for \$100, the party fixed the roof and painted the house, sold it to out of town parties for \$1,100. The assessors



and real estate men consider said property worth not over \$500. What should the assessors do under these circumstances? We have it assessed at \$450.

A. In the final analysis property should be assessed at its full value according to the best judgment of a majority of the board of assessors. It sometimes happens that a particular property sells for more or less than the assessors consider it to be worth but the sale should be given careful consideration by the assessors in arriving at the real value for the purchaser has backed his judgment with his dollars. The fact that occasionally property sells for more or for less than it is worth furnishes no excuse for disregarding sales entirely. These sales are the exceptions which prove the rule.

Q. The state law requires one assessor to serve for four years, and two for two years each. Oneida county's assessors are all elected every two years. Why is this? It is very detrimental to the best interest of assessing.

A. Section 4 of chapter 34 of the laws of 1901, applicable to Oneida county, provides that all three assessors of the towns of said county shall be elected biennially. This is an exception to the general law. Should it be deemed more advantageous to adopt the provisions of the general law this could be accomplished by an amendment of the act referred to.

Q. What constitutes the Postal Telegraph-Cable Company?

A. It is assumed that you refer to the Postal Telegraph-Cable Co. incorporated under the laws of New York State. This corporation was formerly the New England Telegraph Company, and is the operating company in New York State of the combined Postal Telegraph-Commercial Cable System.

The following questions relate to assessors' duties under article 7 of the Farms and Markets Law. Replies are by Inspector F. E. Dawley, Fayetteville, N. Y.

Q. What duties, if any, are imposed upon assessors in cities in the enforcement of the law relating to the licensing of dogs?

A. The law does not place any duty on city assessors regarding the licensing of dogs. The police departments make the list of owners and the city clerk issues the licenses, but in case of damage to domestic animals for which remuneration to the owner is provided under the law the city assessors are to be notified of the damage, and to act as appraisers, according to the provision of the law, just as town assessors do in the towns.

Q. Suppose the city assessors do not know the values of animals, and do not feel qualified to adjust the damages?

A. The Department of Farms and Markets will be glad to send one of its appraisers to help you with information and advice.

Q. What does the state do with all the money it receives from the dog license fees?

A. The state receives but a small part of the dog license moneys. The license fees are collected by the clerks who issue the licenses. From these fees, the share payable to police pension funds is first deducted. Ultimately, the state treasurer receives 10 per cent of the balance. Last year, this amounted to \$60,578.39, out of a total collection of \$656,374.42. The law is absolutely a home-rule measure and only provides enough state supervision to see that the work is done properly by local officials and to secure uniformity in the working of the law in the various towns, cities and counties. To cover these expenses and to furnish each town and city with licenses and tags and all other supplies required in the administration of the law, the legislature makes the necessary appropriation from the state's share of the funds and the 10 per cent has proved sufficient for all these purposes. Ninety per cent never leaves the



county where collected. This amount is available for payment of claims for damages done by dogs and for payment of assessors', constables' and justices' fees. Seventy-five per cent of the surplus is redistributed by county boards of supervisors to the towns and cities in which the fees originated. The other twenty-five per cent remains as a continuing fund.

In collecting this dog license money you are collecting a fund, in many instances, from persons who pay no other tax and which is largely turned back into the towns and cities from whence it came. In most counties the expense of administration is less than it would be if each town and city collected and held its own license fees and purchased its own tags and supplies. The only towns which do not favor the uniform state-wide license system are the ones which were not vigorously enforcing the old law and in which the state inspectors now see that the work is done.

Q. Is there any increase in the number of dogs being licensed under the present law which takes the dog license out of the hands of the local people?

A. To the first part of the question—yes. The number licensed last year is probably more than double the number licensed under the old system. In answering the second part—the present law does not take the licensing of dogs out of the hands of the local people. It puts it right up to the assessors or police departments, the town or city clerks, the justices and city courts or the peace officers. It is all in the hands of the local people. All the state does in the enforcement is to see that these local officers do their duty, and I am pleased to say that with the carefully worked out system of checking up, there are few towns where it is necessary to step in and do anything drastic. In further reply to the first portion of the question, I might say that to the best of our information in 1915, about 110,000 dogs were licensed in the state.

In 1919.....	217,970
1920.....	232,985
1921.....	252,424
1922.....	271,946
1923.....	277,514, for part of the year.

This increase has largely been brought about by the improvement which you assessors have made in the lists which you have given to the clerks of your towns.

Now, gentlemen, we have quite a batch of questions still unanswered. Some of them are almost too indefinite to undertake to answer—besides, we have not the time. In most instances, we have the name of the people who ask them, and we shall both write the person the answer, and if it is of common interest, include it in our printed proceedings.

\* \* \*

Let me leave this thought with you before we close this session of the conference—and, by the way, don't leave immediately, we want about two or three minutes to give to the resolutions committee—but, let me impress this thought on your minds, gentlemen. This question box that we have once every two years is not the only avenue open to you to get our advice, if you value it. We have a legal staff, and you have seen some of them in action this morning. They are here to serve you at all times. If you are puzzled, write down to us. I don't know as we can give you as prompt service as the western hotel gave its patrons. A certain fellow registered at a Texas hotel, went up to his room, and started to wash up. Wanting a bell boy for something, he rang the bell three times, and in about a minute and a half, a boy hopped into the room with a gun in his hand. The guest said: "Haven't you any manners in this hotel. Don't you rap before you enter a room?" and the boy said, "Well, I tell you. You don't understand about things down here. You ring once for ice water, twice for



the chamber-maid, and three times for a gun.” (Laughter.) I don’t know as we can give you as prompt service as that, because our lawyers are busy, and your problems are a little perplexing, but, nevertheless, when you have a question you would like to have answered, and think we can help you out, don’t hesitate to write us.

I shall now recognize Mr. Cole, who is chairman of the Committee on Resolutions, who desires to make a report.

MR. COLE: *Mr. Chairman and members of the conference.*—The printed order of business indicates that the report of the committee on resolutions is to be the last thing before adjournment. At the meeting of the resolutions committee, it was suggested that very often in gatherings of this kind, there is criticism because of the fact that the report of the committee on resolutions is sprung at the last minute, and put over without giving anybody an opportunity to think about it, and for that reason, it was suggested that the report of this committee be read at this time for your information, so that you may have an opportunity to consider it, and then when we reach the order of business—“reports of committees,” it will be taken up again, and acted upon.

The committee on resolutions reports nine resolutions for your consideration as follows (reads resolutions—they are printed elsewhere in this volume).

Adjourned at 1 P. M.





## FIFTH SESSION

THURSDAY AFTERNOON, FEBRUARY 21, 1924, 2:08 o'CLOCK

Needed Changes in General Property Tax Legislation

George Y. Webster, county attorney, Rochester

General discussion

Full Value Assessments

Frank W. Hill, assessor, Victor

General discussion

Equalization of Assessments

John W. Ellis, supervisor, Ellicottville

General discussion

Report of Committee, and Adoption of Resolutions

Closing Address—President New York State Association

CHAIRMAN GILCHRIST: I wish to urge upon the members of this conference the advisability of registering. We contemplate printing the minutes of the proceedings, and will send a copy to each registered delegate. The registry up to noon today has been very gratifying. Six hundred and thirty assessors have registered, supervisors 162 and others participating 70, making a total of 862.

The first speaker this afternoon will be Mr. George Y. Webster, county attorney of Monroe county, and the subject assigned to him is "changes in general property tax legislation."

As attorney for the board of supervisors and attorney of Monroe county, Mr. Webster has made a special study of tax legislation and the administration of laws pertaining to taxation. Mr. Webster:

## NEEDED CHANGES IN GENERAL PROPERTY TAX LEGISLATION

GEORGE Y. WEBSTER

*County Attorney, Rochester, N. Y.*

*Mr. Chairman and gentlemen.*—I had the honor of speaking at the first convention of this sort, which was held in the year 1911. At that time this association was just a baby, and I see now that it has grown to greater proportions than could have been expected. Our chairman has announced that close to 900 delegates have registered, and this shows the growing interest of the people of the state of New York in seeing that the tax situation is properly dealt with.

You know, I think that public officials,—assessors and collectors of taxes, are sort of on the defensive today. People are all the time complaining of their taxes. As a matter of fact, there is not a dollar that is spent by any taxpayer in the state of New York that does not return him more for his dollar than any other money that he expends. If you can put that up to him, and back it up with perfectly valid, true and proveable arguments, you will find that there will be a change in the sentiment on the tax proposition.

The time has gone by when we buy real estate or any other property in a community that advertises a low tax rate. A low rate of taxation, ordinarily, means that the community is not prospering.

I heard of a man in one of the small villages of our state, not far from the city of New York, who had a very dear friend who was about to retire from business, and he wanted him to live in his town,—near him. He invited his



friend to spend a week-end with him, and on Sunday morning he took him around to show him the town, urged him to settle there and build his home, and spend the rest of his days in that nice little place. He explained on the drive the places of interest, and when they were home and getting out of the car he said, "there is another feature. We have the lowest tax rate in the state of New York." His friend looked at him and said, "Well, I am not surprised. There isn't a darn thing in the village that you can tax." So a low tax rate does not always indicate a prosperous or a desirable community in which to live.

In some of our villages of Monroe county which have the highest tax rates we find the most rapid growth,—they have a high rate of assessment, but they give the people something for their money.

You have asked me to speak this afternoon on needed changes in the tax laws. I have in mind two. You know the battle cry that started our forefathers back in the days of '76 to cast off the British yoke was "taxation without representation is tyranny;" and that cry went from one end of the country to another, and they rallied around it. It was really the battle cry; but as this country has gone through all those experiences and has prospered, we have come to the converse of that battle cry. Representation without taxation is tyranny! I have in mind two ways of getting away from that.

First the elimination from the tax rolls of all exempt property. The exemption of real property of religious, charitable and educational institutions is unfair to the owner of the real estate which is not exempt. Exemptions have been added from year to year until the amount of such property on our rolls is much greater than many people realize. For instance, the real property in the county of Monroe, as it appears from the last roll, is approximately \$440,000,000. The exempt property in the county is over

\$51,000,000. If this exempt property were assessed at the same rate as the property which is not exempt, it would mean that more than one-eighth of the real property in the county of Monroe is exempt. I am informed on very good authority that there is a municipality, a small city in the state of New York, over 50 per cent of whose property is exempt. Now, let us look at this proposition with a little charity and justice, and see what it means. It means that the real property is bearing too great a burden in proportion. A great many people who reap the advantage of the property that is now exempt pay no portion of the tax on the property that is not exempt. This proves conclusively that the owner of taxable real estate is bearing more than his just share in the carrying of exempt property.

In our large cities each year many people are disposing of their real estate and going to live in hotels and apartment houses to escape the heavy taxes and the innumerable risks and annoyances that owners of real property are forced to encounter. Some plan must be devised to make them bear their share of taxation. The remark has been made that they do bear it in their rent, but this is a subterfuge, as a careful examination of the conditions will show.

For some time the question of wiping out exemptions on real estate has been advocated in various quarters. The present heavy burden emphasizes the fact that the time is near when we must lay aside our personal feelings, and with charity and justice to all face the real situation, and eliminate all exemptions on real estate.

For instance, the church I attend has a magnificent site, and a \$500,000 plant, on one of the best streets in the city of Rochester. We have our expensive choir and our expensive minister, the finest sort of heating system, and everything up to the nines,—and we are on the exempt list! We believe in performing our religious devotions in the utmost degree of luxury! There is a church of another de-



nomination around the corner that believes in simplicity. It has a \$1,000 chapel. The people who attend that \$1,000 chapel, with its austere furnishings and hard benches, are helping to pay the running expenses of our \$500,000 plant; and a great many people who attend that \$500,000 church do not pay one single penny's worth of taxes of any kind. So you see from that example alone that there is an unfair exemption of real property from taxation.

Something has got to be done to relieve the increase each year on real estate. That is one method.

The second method that I propose is the taxation of personal property. Since the income tax has been in force its taxation in most of our cities and counties has been a farce. It is not the fault of you gentlemen, nor is it the fault of the State Tax Commission. It is the fault of the law. There are several rich towns in the county of Monroe that have not a dollar of personal property on their rolls, and I presume there are a great many prosperous communities in the state of New York that are in the same situation,—without one dollar of personal property. The knowledge on the part of many people that personal property receives so little attention from the assessors has caused them to dispose of their real estate and make personal investments to avoid taxation. Of course the income tax, the M. & M. tax and other imposts affect the income on personal property, but they do not affect the property itself. The man who owns a large building in which he operates his factory pays his tax on the factory, the real estate tax on the building and also his tax on the earnings from the industry. The man who has his money invested in personal property pays his tax on the earnings, but not on the property itself.

One great reason why personal property has not been assessed as it should be is because the assessors are unable to ascertain who has personal property and how much. I believe that this can be remedied by adopting a plan some-

what after this manner: Have the tax districts of the municipalities furnish to each citizen of its district a form, calling for an itemized statement, to be sworn to and filed with the assessors of the district at a time that would enable them to put it on the tax rolls; the statement, of course, to be absolutely confidential. The following out of this method would place many millions on our assessment roll. The effect of this increase on the burden now borne by the real estate is very obvious.

Bill Jones and myself bought houses from the same builder,—the same identical house, except that his is on lot 19 and mine on lot 21. We paid the same amount of money, and the houses have the same kind of shingles on their roofs. Ten years go by, and the houses begin to look rusty. Bill and I have each saved \$2,000, and I say to Bill one night, "What are you going to do with that \$2,000?" Bill says, "I have been looking the old house over, and I think I shall paint it up, put on a new roof, fix up the chimneys, add a porch, et cetera." "What are you going to do?" I said, "I am going to buy me a Buick car."

Bill puts his \$2,000 into his old house and fixes it up, and I let the house go and get my car. The assessors come around and look the houses over, and say, "This house of Webster's is going back. I think we have assessed it a little too high, and we will cut off \$500." So they cut off the \$500 on my house, and go and look at Bill's. They say, "Well, this house is in good shape; new roof, new porch, all new paint, chimneys repointed. Seems to me it is assessed low," and so they add \$1,000 to Bill's bill; but I don't pay one dollar of tax on my Buick! You say, "Yes, you do! You pay for your license!" I do so, surely; but the relatively small license fee that I pay comes back to me in good roads to drive on. Bill stays home on the front porch, and gets nothing out of it.



So right there, you see, there is an unjust tax on Bill Jones' real estate, and I am getting the benefit of his frugality and good sense. What are you going to do to relieve that situation? It is easy enough to do, and I will tell you about it in a minute; but in our town and in all other large cities you will find that people are selling their real estate, as I told you a few minutes ago, and putting the money where you assessors cannot find it, and in many cases could not touch it if you did discover its hiding place.

Expenses of administration are going up, and always will go up. I remember ten or twelve years ago, when we were trying to defeat the Democratic party's candidate for governor because they had a \$59,000,000 budget in the state of New York, the charge was made all through the fall campaign that he had gone away up to \$59,000,000 for the state's use; and it beat him! Now I guess the budget is about \$330,000,000. You see it is always going to go up.

CHAIRMAN GILCHRIST (aside to Mr. Webster): The total appropriation made by the 1923 legislature amounted, I believe, to \$161,000,000.

MR. WEBSTER (continuing): Now, for the remedy: If you take a blank, have it printed, a good deal on the plan of the income tax blank, calling for a list of all kinds of personal property, as I outlined before. As the assessors sit around the table, they pick up Bill Jones' blank, and see what personal property he has, and put it on the rolls. How many millions of dollars of property do you suppose you would add to the rolls in that way,—property that is not paying a nickel's worth of taxes today? There are 1,200,000 automobiles registered in the state. They would average \$250 apiece, I think. Just imagine how much money that would put on the rolls. Think of the money that is lying around in bank and in jewelry and in all those things and not paying one cent of taxes. Why shouldn't

they? Why shouldn't they pay their taxes the same as you and I?

A great many of you assessors from the country assess a man that puts his money into buildings, but not when he puts it into the bank. It is not fair. This system would put hundreds of millions of dollars on the tax roll within one year, money that is not paying a nickel today; and when you put that property on the roll, you necessarily decrease the tax on the real estate.

I presume a great many of you gentlemen this afternoon do not agree with me at all on this proposition; but you have asked me to give you some suggestions, and I have given you two, and each one will help relieve the unjust burden of taxation on real estate. The question of this method of getting after personal property has been worked out successfully, and it will work out successfully, and I give you these two hints, to do with them as you see fit, gentlemen, but I know that something must be done to relieve the unjust burden of taxation on real estate, because real estate seems to be the only thing that the assessors can see to tax. Now, let us disclose some of the unseen things. I think if this is worked out properly, you will find it goes a long ways toward making the situation in New York state better.

I thank you.

CHAIRMAN GILCHRIST: Now we are ready for discussion. Does anyone desire to ask any questions?

Question: What method is to be adopted? Will there be a penalty imposed for not disclosing such property?

MR. WEBSTER: Certainly. You can place the same penalty as is now imposed in regard to income taxes for making a false return. There would have to be a penalty, because if there was not a lot of us would run out of lead pencils before we came to the bottom of the blank.



MR. NELSON, of Livingston county: I adopted that plan in 1921, and we did not have one penny's worth of personalty on our list, and they said, "Well, it is not legal; you cannot do it." We sent blanks to every taxpayer and got 75 per cent of them back in two weeks. They made sworn statements before a notary, and we received \$2,000 in taxes that we did not receive from real estate. We did it again the next year, and found it very satisfactory.

MR. WEBSTER: If you put the teeth in the law, and say, "you must do it," you will have something to support you. You would have a good many thousands instead of \$2,000 money back.

Question: As I understand, you cannot tax money. A man may have a barrel full of it, and you cannot tax it.

MR. WEBSTER: That is the change that I advocate in the tax law,—to tax all those things.

Question: We are ready to accept the change. What about tax exempt securities?

MR. WEBSTER: That applies. Of course I limited my remarks to the exemption of real estate. That equally applies to tax exempt securities. I believe it is one of the big black eyes today, because men are taking their money out of industrials, money that is giving employment and increasing the prosperity of a community, and putting it into these tax exempt securities. It is like selling the stock and digging a hole back of the barn and putting the money into it. I believe in the elimination of tax exempt securities.

Question: We have a loan association in our town, and they would put money into that loan association. How are you going to get around that?

MR. WEBSTER: I merely bring this out today,—the suggestion. If I stood here and brought out the points involved, it would take two or three conferences. It will take such

experts as the tax commissioners, Mr. Rockefeller and Mr. Tobin to work out all the details.

MR. BRODERICK: Tax exemptions of securities, of course, is a very broad subject and covers a great deal of ground. It means, as I see it, that if there was a tax on the securities that are today exempt, municipalities which are today selling non-taxable securities could not so advantageously sell their securities in the open market. Buyers would take into consideration that they were going to be taxed. Isn't that correct?

MR. WEBSTER: Of course that is true. They could sell them and pay a little bit more interest; but that would be offset by evening it all up.

MR. BRODERICK: Don't you think that the city of Rochester today could probably sell its tax exempt bonds at 104? And if they were going to be taxed, they would have to sell them at less than 104.

MR. WEBSTER: Undoubtedly it would not be able to sell at as high a price; but it would even up, because such a large amount of property that now doesn't pay any taxes would be forced to contribute. It is all paid now by real estate.

Question: I represent Cattaraugus, town of Allegany. Referring to the gentleman from Caledonia, if we mail those forms to the taxpayers or those residing in our township as carefully as we can, and they are ignored by the parties to whom they are mailed, where is the responsibility?

MR. WEBSTER: It would be handled just as the income tax blank is handled. You don't have to mail one to him. It is up to everybody to figure out as to the date proposed, to see for himself that he secures a blank; because if you put that burden on the assessor, it would be an unjust and impossible burden. They could have them at the post office,



so it would be the duty of the taxpayer himself to get that blank and fill it out under a penalty.

MR. PHILLIPS: I brought up this subject at Poughkeepsie two years ago, at the mayors' conference. There are twenty-two states of the forty-eight who have listing systems for all property, both real and personal. In this state I suggested a listing system, with a penalty, with an exemption, \$200 or \$250, and tax the balance on a flat rate of from three-fourths of a cent to a cent; and I think the total return from that would reduce the property tax on real estate below one per cent. In New York city alone there must be three times the personalty that there is realty, measured in dollars; and the same is true all through the state.

Question: Our total assessment roll is \$30,000,000; our exemption around \$10,000,000, meaning \$20,000,000 property that is being taxed on \$30,000,000 assessment. Cornell University is continually kicking on any assessment we put on. They own quite a bit of property, business blocks, et cetera, that have been left as bequests, and at the present time they are not paying taxes on them. They are acquiring property not used for educational purposes. I have placed that property all on the books, on the tax roll. This is unused land.

Question: I come from a town in a fruit growing district, Marlboro, Ulster county, right along the river, and during the last few years the Italians have come in there, and they are ready and willing to buy any property there, at enormous prices. They will put a large mortgage on it. It is not any question about the price, but, how much mortgage will you take? I am one of the assessors. Now, here is a property sold not long ago for \$25,000. If I had all the money you could pack in this room, I would not pay \$12,000 for that property. When the commissioner was at Kingston, he asked about that transfer, and said "you have assessed it so much." "How do you get around it?" The chair-

man explained that it was a fictitious value; that those people wanted it and paid three times its worth. I think we did right in placing our valuation, disregarding that sale price.

On the other hand, who is the judge of such properties? Here are three reputable men, and this is their combined judgment.

CHAIRMAN GILCHRIST: I dislike to interfere, but the discussion, sir, is on Mr. Webster's paper. I am going to ask Commissioner Graves to answer the question asked by the gentleman from Ithaca.

COMMISSIONER GRAVES: I would like to suggest to the gentleman from Ithaca that he submit his question in a letter to the commission, because it was received after the questions were answered this morning. But the probabilities are that Cornell University is entitled to no exemption on that property until such time as they use it exclusively for educational purposes. But there may be some particular feature about the charter of Cornell University that I do not understand. If you will submit your question in writing, we shall be glad to answer it.

CHAIRMAN GILCHRIST: The next speaker is Mr. Frank W. Hill, assessor, of Victor, Ontario county, whose subject is full value assessments. Mr. Hill is one of those assessors who believes that tax laws are made to be lived up to, and he is responsible in no small way for placing his town among those whose property is assessed approximately at full value. Mr. Hill.



## FULL VALUE ASSESSMENT

FRANK W. HILL

*Assessor, Town of Victor, Ontario County*

*Mr. Chairman, and fellow assessors.*—The first paper of this convention, on the topic of field activities, devoted nearly all of its time to the discussion of the principle of full value assessment. Since then, scarcely an address or a paper has been heard which did not by question or comment revert to this subject of full valuation. From these facts I judge this to be the most popular theme before this conference, unless it be one which seemed to strike a very tender chord,—the suggestion of an equalization upward of the remuneration of the assessors.

A community living wholly within itself might adopt its own standards of values by which all barter and sale of commodities and all commercial transactions would be guided, and none would suffer thereby. It might decree that a 25 cent coin would be called a dollar, that two quarts would be a peck, 10 ounces a pound and 30 inches a yard; and, all acting in full accord therewith, all would be dealt with in justice and equity. But the first exportation or importation of produce, or the payment of indebtedness upon such standards of value, in any transaction related with a neighboring community dealing in different standards would be followed by tribulation. The town would be charged, and justly so, with using false weight and measure, attempted fraud and theft of values. Other communities would denounce its standards, antagonize its interests and general loss to all would result.

For equitable exchange and honest dealing it is essential that there be a common standard in the measure of a bushel, a barrel, a pound or a portion of any product, and in the valuation of the dollar mark. Otherwise there follows confusion in trade and chaos in finance.

Now, this principle of standardization of values, the essential truth of which we all both recognize and demand as a basis of honest dealing, is as applicable to the assessment of taxes as to the exchange of crops or payment of debts. Taxes raised are a product of a community as truly as harvest of field or output of factory. They are interchanged with other communities in the payment of common debts. They must have a common denominator. The values upon which they rest, the realty of the communities, must have some common basis of estimate. Property which has a certain value in one community may, indeed, have less value, or more, in a different community environment. Its value is set by the law of supply and demand in its locality. The only basis for honest comparison which will fit all conditions in districts of contrasting character is that of full market value, one hundred per cent, in each community.

A town which bases its taxes upon twenty-five or fifty per cent of market value and asks the county to accept such a rate as its portion of responsibility for the common debt is like a would-be bankrupt pleading for a discharge on a fifty-fifty basis of compromise. It is not honest. It is an attempted evasion of an obligation. It attacks its own credit, as would a man who asks acceptance of his 25 cent dollar, his two-quart peck or his 30-inch yard in full payment of an account due. The government holds its dollar at par, and punishes the issuance of cheapened money. It establishes standards of weights and measures, and fines falsifying of their values as offenses against the public weal. And in just dealing with all other communities it demands of each an observance of the equitable standard of tax valuation at



par, one hundred per cent, full weight and measure, according to market value. To do less is unfair to others; it is an act of mistaken concept of the law, or is attempted fraud. This may seem a harsh utterance, but I believe it to be the true ethic of the matter. It is the moral issue involved in the work of the assessor,—full value assessment of all property, without fear and without favor.

But there are other factors in the full valuation of property to be considered that render it worth while, other than the moral issue. Permit me to present several of these:

First: Full value of assessment is more accurately arrived at than any partial valuation. As a matter of practical experience a low valuation seldom has any basis for its estimate other than a guess. It is tied up to no definite standard. The judgment is apt to be biased, even unconsciously, by the ownership. The smaller properties are apt to be held at a higher rated value proportionately than the larger properties, and the smaller landowners thereby suffer from discrimination. The assessors' estimate of full value is constantly checked up by the fact of bona fide sales, a witness of actual value which he cannot get away from. It guides him.

Now, I would like to emphasize right here that I think with some there may possibly be a mistaken conception that the department urges the acceptance of sale prices as a definite figure for enrollment upon the book. It does not. Sale prices are to be guides to the assessor in his judgment of what market value should be. They do not control him, for he must use his judgment to modify each case according to circumstances. But it is an aid to his decision, and sometimes a revelation of the weakness of his good judgment.

Second: Full value assessment is more equitably applied between properties of different character than is a low basis. I refer especially to the differences in valuing a corporate

property, such as a public service corporation, a manufacturing plant, a mining company, in comparison with farm or residence. They are so different in character as to present a problem in equity. The corporate property is generally valued by the process of detailed inventory,—its reproduction cost less depreciative allowance and obsolescence. Is the farm or residence, ordinarily, so valued in detail? It is not. Is there fairness, then, in treatment of the two properties? Honest dealing requires that they be judged by the same standard, as far as possible.

The corporate property is inventoried in detail, and that is unquestionably the best way to ascertain its value. How, practically, can the residence property be inventoried? By using as a standard the full bona fide sales value. This practically inventories it, for in the judgment of seller and buyer, the sale price is set by the reproduction cost, less depreciation. Let me illustrate. A buyer, seeking a residence in a community, finds a seller. They go together and visit the property. The prospective buyer looks over the house. He has made up his mind about what price he wants to put into the house, the character of house and its improvements desired. Let us say that he expects a house that will cost about \$7,000. Looking over this proposed place, he notes that there are no electric lights nor wires for them, and that is one feature he desires. He says to himself, "that will cost me \$300,—to wire this house and put in the fixtures." He notes that the heating equipment is about done for. The boiler will have to be replaced and there are certain other matters which will entail a cost, let us say, of \$800. In the cellar he desires a partition wall and a concrete floor, and he estimates that to be about \$100 more. On the lower floor he desires hard wood floors. That will cost him \$300. The total amount that he will have to put into that house, as it stands, to bring it up to the kind of house he expects to purchase for \$7,000, is \$1,500, and he



says to the seller, "I will give you \$5,500 for the property." Has he inventoried that property? Has he not? He has not inventoried the property by the work of an engineer, the details of every little thing; but practically he has inventoried that property, so that when he offers to the seller \$5,500 and the seller accepts, that becomes in the then condition of the house the market value, fair and honest.

The cost of reproduction, replacement, is in effect an inventory of all costs that would be required to constitute the property. The residence values, therefore, by this standard, have been placed upon the same plane as an inventory of the corporate property, which is equity.

Third: Full value assessment reduces the rate of tax and works out for the average taxpayer in a reduction of tax paid. This is proved by experience. Why is it so? Because the full valuation basis more truly equalizes all the properties in the town, which is to the benefit of the larger number of smaller tax payers. Again, let me illustrate by facts:

In the town of Victor, while assessing some years ago around the rate of 60 or 65 per cent of valuation, the rate of taxation was from \$14 to \$15 a thousand. I am using round figures. Since the full value standard has been attempted the last three years, our valuation ranging from 94 to 99 per cent, the rate of taxation has been from \$8 to \$10 a thousand. The great majority of the taxpayers, indeed all with very few exceptions, have actually paid less taxes in cash. The very few paid slightly more, because their property needed equalizing upward.

Fourth: Again, full value assessment reduces the town budget, and therefore the tax rate, by increasing the town receipts from the state income tax distribution.

The distribution of the income tax by the state to the counties is upon the basis of the proportionate valuation

of the county to the entire state. A county, therefore, with higher percentage of valuation draws back from the state a larger portion of the income tax. Likewise, the county distributes the funds it so receives among the towns upon a similar basis. The town, therefore, having higher valuation, receives a larger share of the fund. This is applied to the reduction of the town budget to be raised by tax. Again let me illustrate:

In 1919 the town of Victor assessed at about 65 per cent of full value, and received about \$3,600 income tax. In 1920 it went up to 99 per cent assessed valuation, an increase of 45 per cent. It received about \$4,700 income tax, an increase of 31 per cent. Another town in our county that same year raised its valuation 3 per cent, up to 55 per cent of full value, and yet received \$25 less income tax than it did the previous year. In 1921 Victor stood practically as the year before. The other town advanced its values five per cent, yet, because of the general increase in property values through the county, it stood rated at but 50 per cent valuation. It received from the income tax about \$38 less than it received in 1919.

This year Victor's tax rate is 10.39. This other town's tax rate is 29.39. This other town assessed at one-half the valuation. It pays three times as much in the rate of taxes. Why this gain to Victor and this loss to the other town? Because Victor placed near its full value on its books, and the other trusted to its fifty per cent. There was but little actual change in the value of property.

Meanwhile, other towns of the county had advanced their percentages of valuation, raising some 34 per cent. These changes will place a much larger handicap upon the low percentage towns.

At our session last evening, another argument for the advantages of full assessed value was presented which I had not thought of before. I am glad simply to refer to



it here: That full value assessment tends to eliminate the difficulties in the equitable adjustment of public school moneys, and of joint district differences. That was very excellently presented, and is something worth while considering.

Now, in closing;—to initiate a full value assessment, the wisest way is to disregard in toto previously recorded sales, forgetting them as far as possible, and compile an absolutely new table of values, based upon the probable market worth, as far as recorded sales and the specific conditions of each piece would seem to indicate. All sales of forced nature, all ratings in family settlements, all specified considerations in trades of property and all freak sales should be eliminated from consideration; and where any personal property is involved its value should be deducted from the sales prices recorded. With these safeguards, the use of open market sales of record is of the highest advantage in checking up estimated values and guiding to a proper booking of full value assessment.

To sum up the matter: Full value assessment, honestly attempted, is meeting the law's requirements. It is just. It is equitable. It is practical. It is advantageous. And it proves acceptable to all classes of property holders in the town. Give them a chance to tell you whether they like a full value assesment or not; and I know that you will be surprised at the unanimity of opinion throughout the town, supporting you in such act.

One of our fellow assessors, a little while ago, in a conference, said that his board had raised their town values 10 per cent one year and 10 per cent the following year, and that a constant howl went up. Well, I don't wonder! That is what the dog did when in mistaken mercy, they cut his tail off an inch every week. One good stroke would have eliminated the tail and saved anguish. Come up to the full value in one year, and you will find that the people are with

you if you do it honestly, to all kinds of property within the town. After we had entered this system upon the books, and they were public property,—publicly open for inspection, I think the first year we had only four inquirers, only one of whom made protest against the valuation on the day of the assessors' tribulation; and since then I think we have never had more than half a dozen in the whole town who have made complaint of their assessed valuation in comparison with other pieces; and I will say this: That in all dealings with industrial and public service corporations of the town, we have never been upon such a basis of cooperation, mutual good understanding and ready exhibit of accounts and records for obtaining values as we have had since we put the full value assessments on the books. The corporations believe that we are striving to treat all alike, and they are ready to pay the full price for such treatment. We raised the Lehigh Valley Railroad's expenses almost double. It stands now in the vicinity of \$400,000. We have only one small matter at issue between us today,—the understanding of just about how many cubic yards were in a cut and fill of their roadbed, and of course that can be mathematically determined. In everything else they have accepted our figures, because we have an inventory statement of detail, everything that constitutes their road, and if there is any cause for difference, we ask them to point out the detail to which they take exception, and they have no exception to take.

I thank you, gentlemen.

CHAIRMAN GILCHRIST: We are ready now for discussion of the paper just read by Mr. Hill:

Question: I would like to ask Mr. Hill, where would the town of Victor be if all the towns of the county cut their dogs' tails off as closely as he did?

MR. HILL: We would be in an equitable situation with all other towns. When the day comes,—a sort of millenium



in tax paying, with all the towns of the state coming up to full value, these matters will be without differences of opinion, I think.

Question: They told me to ask this: We are supposed to get our slice of this return from the state. Say you raised to 100 per cent. How much larger slice must we pay? They are afraid the extra slice is larger than what we get back.

CHAIRMAN GILCHRIST: Commissioner Graves will answer.

COMMISSIONER GRAVES: It will be no larger; because now, whether you know it or not, you are paying, not on your assessed valuation, but on what the State Board of Equalization has decided you ought to be assessed at.

Question: In our town we are about 85 per cent, and the adjoining towns are much lower. In our school districts we have a little trouble in equalizing. How can that be remedied?

COMMISSIONER GRAVES: That question was answered here this morning. There is a provision in the education law. You should make application to the district superintendent of schools in which your town is located. He will request from us the rates for the two towns involved, and when that information is before him, to use a vulgar phrase, "it is up to him" to equalize the taxes in that school district. I believe section 414 of the education law controls.

Question: If the board of assessors of Ontario county did its full duty in equalizing the tax of your town for state and county purposes, if there was any injustice done to the town that assessed at 50 per cent of its value, how could it be remedied?

MR. HILL: If perfect and honest work were done by the board of supervisors, through its committee on equalization, there would be no injustice as between town and town in the county. But you are face to face with two other matters worth considering: First, that it is far more difficult

for them to adjust unless they are up to 100 per cent; secondly, that does not put you in as excellent standing in the relation of the county to the state. You are dealing with larger districts than simply your county. The county has its relation to the state, and that must be considered also.

CHAIRMAN GILCHRIST: The next speaker is Mr. John W. Ellis, supervisor of the town of Ellicottville, Cattaraugus county. His subject will be "equalization of assessments." Mr. Ellis is a member of the equalization committee of his board of supervisors, and is one of those who made the first real effort to obtain a fair equalization of assessments in Cattaraugus county. Mr. Ellis.



## EQUALIZATION OF ASSESSMENTS

JOHN W. ELLIS

*Supervisor, Ellicottville, Cattaraugus County*

Of the many freak movements which manifest themselves in our national life from time to time, the latest appears to be the mobilizing of prairie schooners for advance on Washington, and the holding of parades, with canvas coverings and banners bearing the legends "get in the fight for lower taxes," "let's go back to the ways of our fathers," et cetera. It is very unlikely that such a crusade will be any more fruitful of results in the way of permanent administrative and tax reform than were the wearing-of-overalls episode and meat strike productive of lower prices for clothing and meat.

It is always desirable that waste, extravagance, incompetence and corruption be eliminated as much as possible from public affairs; but in spite of those elements, this is necessarily the day of high taxes. The people are making greater demands upon their national, state, county and local governments than ever before. Great public improvements, necessitating large bond issues, are demanded and voted for by the people themselves; and the expense of administering public affairs has, like everything else, greatly increased.

The town where I live now has a tax rate more than double what it was a few years ago, in spite of a much higher assessed valuation; but ten years ago we were not building county and town highways at \$20,000 a mile, 60-foot span bridges did not then cost seven or eight thousand dollars to build, road scrapers did not cost \$1,000. Ten years ago justices of the peace received twenty-five cents

for issuing summonses, and constables received twenty-five cents for serving same, and they were allowed only ten cents a mile for traveling. Assessors then received two dollars a day, and were obliged to furnish their own means for getting over the assessment district. The cost of everything essential to the carrying on of national, state and local affairs has necessarily increased, but I believe not out of proportion to the general increase in the cost of living. In view of the increasing demands of the people for greater service from their public agencies and officials and for public improvements, and the further fact that a very large proportion of the direct tax is for local needs and purposes, it is very doubtful, in my opinion, if direct taxes will be any less than they are now for years to come.

Revenues, therefore, must continue to be provided; and we, as tax officers, must constantly seek better methods of equalizing and apportioning the expense of government, so that it may fall as fairly and equitably as possible upon all classes of taxpayers.

The State Board of Equalization apportions and equalizes the direct state tax between the various counties of the state. The State Tax Commission equalizes the special franchise assessments of public service corporations to accord with the ratio in effect in the various counties, cities, towns and villages. The boards of supervisors, or county commissioners of equalization, in counties having such officers, equalize the assessments between the towns of their respective counties. The local assessors equalize the assessment values between the individual and corporate owners of property liable to assessment within their local tax districts.

There is nothing in my personal experience that qualifies me to offer any information or suggestions in reference to the equalization activities of either the State Board of Equalization or the State Tax Commission; but perhaps the relation of some matters in connection with the equalization



work of both the board of supervisors and the town assessors of my home county and town may present some points which will prove of interest to you.

About nine or ten years ago the board of supervisors of Cattaraugus county selected a committee of three of its members to go through the county and examine the assessments of the various tax districts. This committee spent a great deal of time at the work and made an exhaustive study of the matter, and, following its report, the board adopted a percentage table which, at the time, I believe, gave general satisfaction. This table was revised from year to year, with increased percentages or points allotted to the tax districts which showed increase in assessments, exclusive of new property, until the year 1922. In that year the percentage of some of the districts had nearly reached the hundred mark, and the equalization committee recommended that each district be set back 20 points. The recommendation was adopted by the board by a narrow margin, but it was apparent that the table had become unsatisfactory. Several attempts were made shortly afterward to bring about the appointment of another special committee, but nothing was accomplished until after the appointment of the 1923 equalization committee. The latter organized early in the year, discussed the matter of a new percentage table, and appointed a subcommittee of three, of which the speaker was one, to investigate the subject and make recommendations for a revision of the table.

Through the courtesy of the State Tax Commission, this subcommittee was permitted to make copies of the assessors' reports of real property sales for the past two years. Comparisons of assessment rates on classes of property of fairly constant value and of general distribution through the different units of the county, (for example, railroads of standard construction passing through a number of towns), were made. Comparison was also made with the equalized values

of the towns, fixed by the tax commission, and the observation and knowledge of various members of the board was utilized. The information thus gathered by the subcommittee was of much assistance in enabling the committee on equalization to present a greatly revised percentage table that, upon presentation, was unanimously adopted by the board of supervisors.

The assessors of the town of Ellicottville, where I live, attended a meeting held by the State Tax Commission in Cattaraugus county last spring. So impressed were they by the talk in reference to full value assessments, that in carrying on their work last year they applied almost a flat increase of fifty per cent to all assessments,—railroad, farms, residence and business properties. Then to add to this complication, upon review day, they took \$25,000 off of the railroad company's assessment, \$3,000 off of a large milk plant, and made some other changes, with the final result that, although the taxes of the vast majority of the taxpayers of the town were somewhat in excess of those of the preceding year, the railroad company's taxes were \$200 less and the taxes of every other public utility in the town were less.

The final result of the action of the assessors was an increase of about 49 per cent on the total assessed valuation of real property and upon equalization by the board of supervisors, which I have already referred to, secured the town a percentage of 88, the highest of any district in the county; whereas on the last preceding table the town had a percentage of 59. While I do not commend the method pursued by the assessors in thus securing the increased valuation, the same was beneficial to the town, inasmuch as the consequent equalization resulted in the town having to pay \$3,000 less state and county tax than it paid the year previous.

The local assessor holds the primary and most important position in adjusting the burden of just and necessary taxa-



tion to the shoulders of his neighbors, who must bear it. He equalizes as between Smith, Jones and Brown, and is the judge as to their property responsibilities to the town, the county and state. He must be an appraiser, a judge and an equalizer.

Under the existing system of taxation, I believe that the assessors in every tax district, instead of endeavoring to reach higher valuations by any horizontal percentage basis, should consider each individual property upon its own merits and endeavor to appraise each at its full value. I believe that when they come to public utility and industrial properties, the assessors should call upon the State Tax Department or upon competent private engineers to make appraisals of same, so as to have something with which to meet the claims of the representatives of these classes of property on review day. I believe that the records of sales, while not conclusive evidence of values, may be of considerable assistance in determining same, especially when there has been a fair average of sales in any particular locality. I think these sales records should be made annually and in triplicate, one copy for the tax commission, one to be filed with the clerk of the board of supervisors and one with the town clerk; the purpose of the extra copies, of course, being for the use of the board of supervisors and the local assessors.

In closing, I will say that all investigation, study, experience and thought on this subject lead irresistibly to the conclusion that the the shortest road to perfection in equalization is the full value assessment.

I thank you.

CHAIRMAN GILCHRIST: Any discussion or questions on the paper just read? If not, we will hear from Mr. Cole, chairman of the resolutions committee.

(Resolutions, as printed below, are offered by Mr. Seth T. Cole, on behalf of the Committee on Resolutions, Mr.

Cole in each case, acting on instruction from the committee, moving the adoption of the resolution as read.)

(Debate on the resolutions was as follows):

No. 1. Carried unanimously without debate.

No. 2.

MR. VANCE: I would say concerning this map business, that it will be fine in some places, but in my town I do not think it would be any use. I ask to be excused from voting.

Question: To whom would the assessors apply to get their maps produced?

MR. COLE: That is a matter under the jurisdiction of the town board. They will arrange to have the map prepared.

Question: We made a map in the town of Fallsburgh, and it was not perfect, but we found it a great help on our railroad and school districts.

(Resolution number 2 carried without a dissenting vote.)

No. 3. Carried unanimously without debate.

No. 4. Carried with one dissenting vote.

No. 5.

Question: I would like to know the exact meaning of this assessment date. I do not quite catch the idea. Does that mean getting together of the assessors?

MR. TOBIN: No; it just has to do with the status condition of property on a given date whether it be entirely completed or partially destroyed by fire. The condition of the property will be taken as of the uniform date.

Question: Does it have to be reported? What effect will it have on the town assessors throughout the state? We don't want to claim this as being our judgment unless we know what we are doing. Let him make it plain.

MR. TOBIN: Take the condition of property in towns, now taken as of July first. If the uniform date was established for all tax districts as of January first, you would



take the condition or status of property as of January first instead of July first.

Question: On January first, where do we get together and meet and talk it over?

MR. TOBIN: It has not that effect, sir. When you come to make the assessment of property, you would take the condition as of January first. We say it would be a good thing to have one date in fixing the status of property for every tax district in the state. If July first is the proper date for fixing the status of property for the town, village and school districts, let us make it July first; but we are not fixing any date at all. It has nothing to do with equalization.

CHAIRMAN GILCHRIST: We are merely discussing the principle as to whether we should attempt to secure a uniform date. All those in favor will please signify by voting "aye." (Resolution carried, not unanimous.)

No. 6. Carried but not unanimously.

No. 7.

*Resolved*, That no good reason exists why there should be more than one general property assessment, one levy of tax thereon and one tax bill; and that the adoption of such a system will prove beneficial to both taxpayer and administration officials; that this conference favors the enactment of laws designed to carry this principle into effect. (Original form.)

Question: Under this proposed resolution, as I understood it, it requires all taxes to be paid on the one assessment, at one time.

MR. TOBIN: No, it doesn't go into the payment of taxes at all. It simply says "one levy and one base." The matter of payment is for the legislature to solve.

Question: I do not understand that.

MR. TOBIN: I do not want to have it understood that these resolutions originated with me. I believe in them, but did not introduce them.

Question: In my town we had a set of assessors for the village and another set for the town. Now, does this mean doing away with one set of assessors?

MR. TOBIN: That is just what it does. It means one levy for the entire town. As the president said before, we are not attempting to legislate and this resolution is not an attempt to legislate. The conference is going on record for a principle as to whether there should be only one levy for all purposes within the town.

Question: Well, if we vote "yes" on this, are we obliged to carry it through?

MR. TOBIN: No, you are voting on the principle of what, in your judgment, is good. If you feel that it is good, vote for it. The conference should always be sure that it does not take on the function of legislating. Leave that to the men elected to the Senate and Assembly. The conference should establish principles which are good and pass them on. The resolution committee felt that this was good. I am glad to defend them, because I believe that they are right.

MR. FRANK W. HILL: Mr. Chairman, I am quite in favor, as far as I have been able to get opportunity to think through, with the sentiment of the resolution, but I somewhat question the phrasing. It begins with "there is no good reason why," such and such a thing should be done. I would prefer to express it somewhat in this form,—That it seems good to this body that there should be such and such. It is rather a strong statement to say that "no good reason exists."

MR. TOBIN: I move, Mr. Chairman, that the language be so amended by Mr. Hill,—that "it is the sense of the conference."



MR. COLE: I think we might say "in the judgment of this conference."

MR. TOBIN: It is better to drop such words, because they express too much.

MR. COLE: Will you undertake to frame that resolution, Mr. Tobin?

MR. TOBIN: Our good friend, Mr. Hill, might better do it.

MR. VANCE: It has been the law for a good many years that all incorporated villages have a right to make their assessments from the town assessors' assessments of the village in which they are. I do not know of a village that ever did that. The village has always preferred to elect its own board of assessors for village purposes. I would be satisfied either way.

MR. COLE: A great many villages adopt their assessments from the town roll.

MR. GROAT, of Erie county: Prior to 1920 we had practically three sets of assessors, for school in the village, and also village and town assessors; but in 1920 the school board voted to take our assessments in 1921; the village board voted to take our assessment and that has been the practice for two or three years, and it is giving a good deal better satisfaction than when we had three sets of assessors.

MR. COLE: You have that idea in practice in nearly every city in the state,—one assessment, one tax levy, one tax bill. Perhaps the bill is payable in installments, sometimes three a year; but the idea is in practical operation in most of the cities of the state today, and it seemed to the resolutions committee that the idea was good, that it would be a step forward. For that reason, the resolutions committee adopted this resolution, and presented it to you for consideration, not with the idea that any action taken here will effect any immediate change in the present situation, but it brings the matter

up for thought and discussion, and we hope that eventually this change will be brought about.

Question: What do you mean by tax bill?

MR. COLE: One statement of taxes for all purposes. When you get your tax bill, you know what you have got to pay that year for taxes. It includes your city, county and town tax, school district tax and special district tax and everything that you have to pay for taxes in that year included in that one levy and on that one bill. !

MR. BROWN, Genesee county: This would do away with the school tax, wouldn't it?

MR. COLE: It would not do away with the tax. It would be levied in a different manner.

MR. BROWN: It would not do away with the district school tax?

MR. COLE: It would not affect that at all.

Question: I understand the tax in our village, in every village in this state, they are taxed for village purposes in that village. I am afraid some of us are getting mixed up.

MR. COLE: We don't want anyone to get the idea that he is voting for something that is not right.

Question: I live in the village of Lyndonville, and we have three,—the state and county and village tax, and the school tax. I lived in Minnesota for some years, and have property there now. On the first of January I can find out just what my taxes are for the year in Minnesota. The county treasurer will send me a statement of the amount of taxes and on the back of the tax receipt, when I pay the taxes, I can read just what that tax is for. It is for road work, for the thousand and one things we pay taxes for. It is all on that bill. The law in Minnesota provides that there will be two payments. If I pay my first half the first of June, I have until the first of November to pay the other half without any penalty. I think that is an excellent thing.



It would be fine in this state if we had all those things on the first of January, so we would know what our taxes are for the year. It would, to my mind, be a good thing.

Question: Mr. Chairman, I happen to be on both the village and town boards. I think if the town board would leave the assessment with the village board, and the village would accept the assessment of the town board, the town would save nearly \$1,000 on that assessment.

Question: I happen to be a member of the board of assessors and also a trustee of our school district. We think our academic school is very good. We expect to graduate 90 per cent of the high school pupils and practically 80 per cent of the grades pupils graduate into the high school. Adjoining our school district we have another school, that possibly has not over 40 per cent. Their rate is 2.45 and ours 1.32. Now, then, if we amalgamate this tax, do we have to go 50-50 on our school?

MR. COLE: No; the school tax would be computed in just the same way it now is.

Question (same man): Would we have to pay the same rate as their school?

MR. COLE: You pay the same rate as you are paying now. It would not affect the amount of the tax. It would merely do away with the necessity of paying one bill for town taxes and another bill for school taxes; you would get one bill with both items.

Question (same man): It would be the duty of the school trustees to make up the budget for the assessors?

MR. COLE: It simply would be that the taxes would be extended on the valuations appearing on the town roll; but the assessors would have no control over the amount of the school budget.

Question: In the town where I live we have state tax, county tax, and all other kinds of tax bills, but we get them

all on one bill. A man knows just what he has to pay for all those purposes. As far as equalizing the school tax, on our tax books it is written in, "district number nine," say the budget is \$11,000, and the rate is so much. In district number 8 it figures up so much. The rate is so much. That all goes on the tax books, so it is just as plain when the school commissioner gets his tax, it is just plain sailing. There is no trouble about the school tax.

Question: I live in Saint Lawrence county, in Canton. We have a lot of schools. We fix up our tax rate on the first day of July, and the trustees of the education board, after that time, make up their school assessment about the first or middle of September. They take what we have made up and they go from that and look over new buildings more thoroughly completed, and fixed up and add it on. Then we have a corporation tax, due in June. Where would we gain anything, whether we paid \$25 at a time or \$125 at a time? A great many people have \$25 on the first day of January, but they cannot pay on \$125.

CHAIRMAN GILCHRIST: Commissioner Graves.

COMMISSIONER GRAVES: I can see there is some confusion as to what is meant by this resolution. It is not designed to throw the village budget into the town and tax the people of the town to support the village; it is not designed to throw all of the school districts of the town into one general pot, and have a general tax rate for schools for the entire town. This resolution is not designed, and if legislation was framed under it and carried into effect, it would not disturb the distribution of taxes in any way whatever. Get that thought firmly fixed in your minds! What this resolution would accomplish, if the legislature in its wisdom accepted the principle and enacted it into law, would be this: As it now is in a town where there is a village, the town board gets a set of assessment rolls, and they cost money. They proceed to make their assessments, and it costs the town money



to have them made. Then the village board gets a set of assessment rolls, and they proceed to make some assessments, and both the rolls and the preparation of the rolls costs the village money; and then later on the trustees of the school district buy a book or some scraps of paper or something else, and they go down to the town clerk's office and proceed to make up another tax roll, which likewise costs money. So we have three tax rolls, plus the work and the expense incident to their making.

The first point in favor of this resolution is that it would be more economical for the taxpayers if but one set of rolls were employed and but one set of assessors did the work. That will save expense. The gentleman from Minnesota illustrated the advantage on the other side. If he had his property in a village in one of our towns, and he was living up in Minnesota, he could not get a tax bill showing his entire tax. He would have to write down and find who the town collector was and get a tax bill from him and another from the village collector and one from the school tax collector at another time.

The idea here is to have one assessment roll. Here in the first column, perhaps, they will put down the town, county and state tax. Then, if this parcel of property happens to be in the village, the village board will certify to same, and put down in the second column the amount of village taxes. Over in the third column perhaps they will have the school tax, and it will not be uniform with all the property in the roll. It will be calculated upon the properties in the school district, each according to its rate; and then perhaps a fire district or water district or a sewer district or sidewalk district,—there will be columns for all of them, so that any one can see at a glance what his tax liability for a year is when he get his tax bill. He has not three collectors. If he is a non-resident, he will be particularly inconvenienced.

I want to repeat that it will not influence in a single instance the distribution of the tax. It will not make you more taxes or less taxes, except by the general reduction of expenses, and the tendency will be to have it cost you less. It is the purpose of this resolution. It does not mean that if it is adopted you are to go home and put it into effect, because legislation would be necessary before it could be made operative. It seems to me to be a highly constructive proposal, and one to which we may well subscribe.

Question: Up there in our county, Livingston, they would not dare make those fellows that work on the road,—the election takes place,—all that is done in June. Our city and county money is not made up until January, and they would not wait that long for their pay.

MR. GRAVES: That is a detail that would have to be worked out in the legislature, to get them on a common fiscal year. The taxes would not have to be paid all at one time. They could be made in two, or three, four or twelve installments, if the legislature thought it would be good.

Question: We have used that system for a number of years.

MR. GRAVES: You have in villages. If you own property in the village, you pay your village taxes at one place and to one man, and your town taxes to another and your school taxes to still a third?

Question (same man): No, sir.

MR. GRAVES: I beg to differ.

Question (same man): All the different taxable properties in our town come from the assessors' list. They assess to Tom Smith \$5,000. The school trustee just states the amount of money he wants to raise in a district. All he does is guess at the rate.

MR. GRAVES: What county are you from?



Answer: Suffolk county.

MR. GRAVES: You have a special law then. The principle you are applying is the one we are suggesting.

Answer: Exactly; and it works fine.

CHAIRMAN GILCHRIST: Will you read the resolution, Mr. Cole?

(Mr. Cole reads resolution number seven, in amended form, and it is passed.)

MR. PHILLIPS: I have the opportunity of working under three different ways; the single payment of the whole three or four budgets, then dividing it into two and now back to three. But I believe at this conference that resolutions should be cut in two, because the members here, and those in attendance, are daily coming up against the most sacred book connected with government,—the assessor's book; and have nothing whatever to do with the levy of taxes or the collection of taxes. Their full duty is to develop an assessment roll, which, when the tax is levied and spread over different properties, is in equal proportions. They get mixed. Here they get up and talk and mention tax rolls, when they have nothing to do with the tax. They mean assessments. The two are diverse, and it would be plainer and more easily understood.

No. 8. Carried unanimously.

No. 9. Carried unanimously.

## RESOLUTIONS AS PASSED

### *Resolution No. 1*

*Resolved*, That it is the sense of this conference that the law requiring the assessment of property at its full value should be complied with by all assessment officials, not merely by subscribing to the oath in the assessment roll to that effect, but by faithfully and conscientiously determining the fair market value of each property and placing the value so determined upon the roll.

### *Resolution No. 2*

*Resolved*, That the assessment of real property can be improved by the adoption of tax maps for each tax district which permit the application of scientific methods to the work of the assessor; and that each individual member of this conference will use his influence to secure the preparation of such maps for the tax district which he represents.

### *Resolution No. 3*

*Resolved*, That this conference favors the organization of county assessors' associations for the interchange of views, and the study of taxation matters; that meetings of such associations should be held at least once in each year and oftener if the necessity is apparent; that the board of supervisors be requested to defray the actual and necessary traveling expenses of the assessors who attend.

### *Resolution No. 4*

*Resolved*, That the compensation now fixed by law for assessors is inadequate, if efficient work is to be expected, and that this conference favors an amendment to the town



law which will increase the minimum compensation of assessors to \$5 per day.

*Resolution No. 5*

*Resolved*, That a uniform assessment date for the assessment of property for city, town, village and school purposes is highly desirable and that this conference record itself in favor of the same and urge upon the legislature the desirability of the enactment of such legislation as may be necessary to that end.

*Resolution No. 6*

*Resolved*, That the exemption of property from taxation has been carried to extremes for which reason this conference is opposed to the enactment of future laws extending exemptions and favors a revision of the administrative features of present statutes for the purpose of a more strict enforcement of the same.

*Resolution No. 7*

*Resolved*, That in the judgment of this conference it would seem most desirable that there be but one general property assessment, one levy of tax thereon and one tax bill, and that the adoption of such a system will prove beneficial to both taxpayer and administration officials; that this conference favors the enactment of laws designed to carry this principle into effect.

*Resolution No. 8*

*Resolved*, That the thanks of this conference be extended to Hon. William S. Hackett, Mayor of the City of Albany, and the people of said city, for the very cordial welcome and courteous entertainment afforded this conference and the individuals in attendance at it; also to the State Education Department for the use of Chancellors' Hall for the sessions of the conference; also to the Associated Press, the United

Press, the Press of the City of Albany and the members of the Legislative Correspondents Association, for their generous recognition of this conference and its proceedings.

*Resolution No. 9*

*Resolved*, That the appreciation of this conference be expressed to His Excellency, the Governor, Hon. Alfred E. Smith; to the New York State Tax Association; to the State Tax Commission, and its individual members; to those who have contributed to the success of the conference by preparing and submitting papers; and to all others who have in any way assisted in making this one of the best, if not the best, of the state conferences on taxation.

CHAIRMAN GILCHRIST: I am going to transgress the rules for a minute or two and ask Mr. Tobin, the newly elected president of the New York State Tax Association, to address the joint conference.

MR. TOBIN: *Mr. President, and members of the conference.*—I want to say that I appreciate very much the honor that has been given to me in being selected the president of the New York State Tax Association. I have seen these conferences grow, from the first, when we met in Utica, New York, in 1911. This meeting seems to me unquestionably the largest conference that has been held. I had only a small part in the committee on arrangements and with the officials of the State Tax Commission in offering a program that would bring out the most for those interested. I intend to carry on with the State Tax Commission, so that we in New York state will have the best administration of tax laws in the country. That can be accomplished by carrying out the mandates of the statute and cooperation with state and local officials; and if you are in doubt at any time as to what you should do, my plea is that you get in touch with the State Tax Commission and obtain their expert services which are at your call at all times. You have the hardest job to be



done in your community. You can do it best by availing yourself of the advice and service that is at your hand here in Albany. Back home, you should try, in your own way, to see that equality is obtained in the taxation of property generally. It is not all smooth sailing, of course; but do it in the most conscientious manner, and no one can righteously complain.

I hope that these conferences will continue. They will continue, and they will be a lot of good if we keep in mind this one thing,—that we are not here to legislate, but to help work out the problems we have at home and the people in general have here at Albany. Just pass on the principles that are good, and ask the legislature to make them into laws.

I can only urge, in closing, full cooperation,—cooperation in 100 per cent with the officials at Albany; and if I can be of any service, or if the officers of our association can be of service (as I expect you are all members) please call on us. It is an entirely volunteer association to help in the tax work of the state, and I am at your command.

I close in thanking you, and in saying a word of personal praise to all the members of the tax commission, to President Gilchrist and to Commissioner Merrill and Commissioner Graves, and not to pass merit by, we are indebted much to Mr. Rockefeller, who has skillfully guided the main spring in putting this conference over. I thank you again.

CHAIRMAN GILCHRIST: On behalf of the New York State Tax Commission and the New York State Tax Association, I desire to thank the assessors for the attention given the various subjects discussed and the interest you have manifested, not only by your personal attendance in such numbers, but by your general interest and frequent participation in the discussion.

MR. VANCE: Can I have an answer to my question this—.

CHAIRMAN GILCHRIST: We have made the repeated announcement that unanswered questions will be answered by mail.

MR. TOBIN: I would like to have it noted that our good friend, Mr. Holcomb, whom I know you all well remember, is unable to be present by reason of illness. No one regrets his inability to be here more than Mr. Holcomb. He has been heart and soul in the work of these conferences since their inception, and has been one of the big men of the country who have helped to bring about better tax laws in the state. I did not want this conference to break up without some mention of the fact that Mr. Holcomb is absent because he is physically unable to be present, and not of his own wish.

On motion the conference adjourned at 4:15 P. M.



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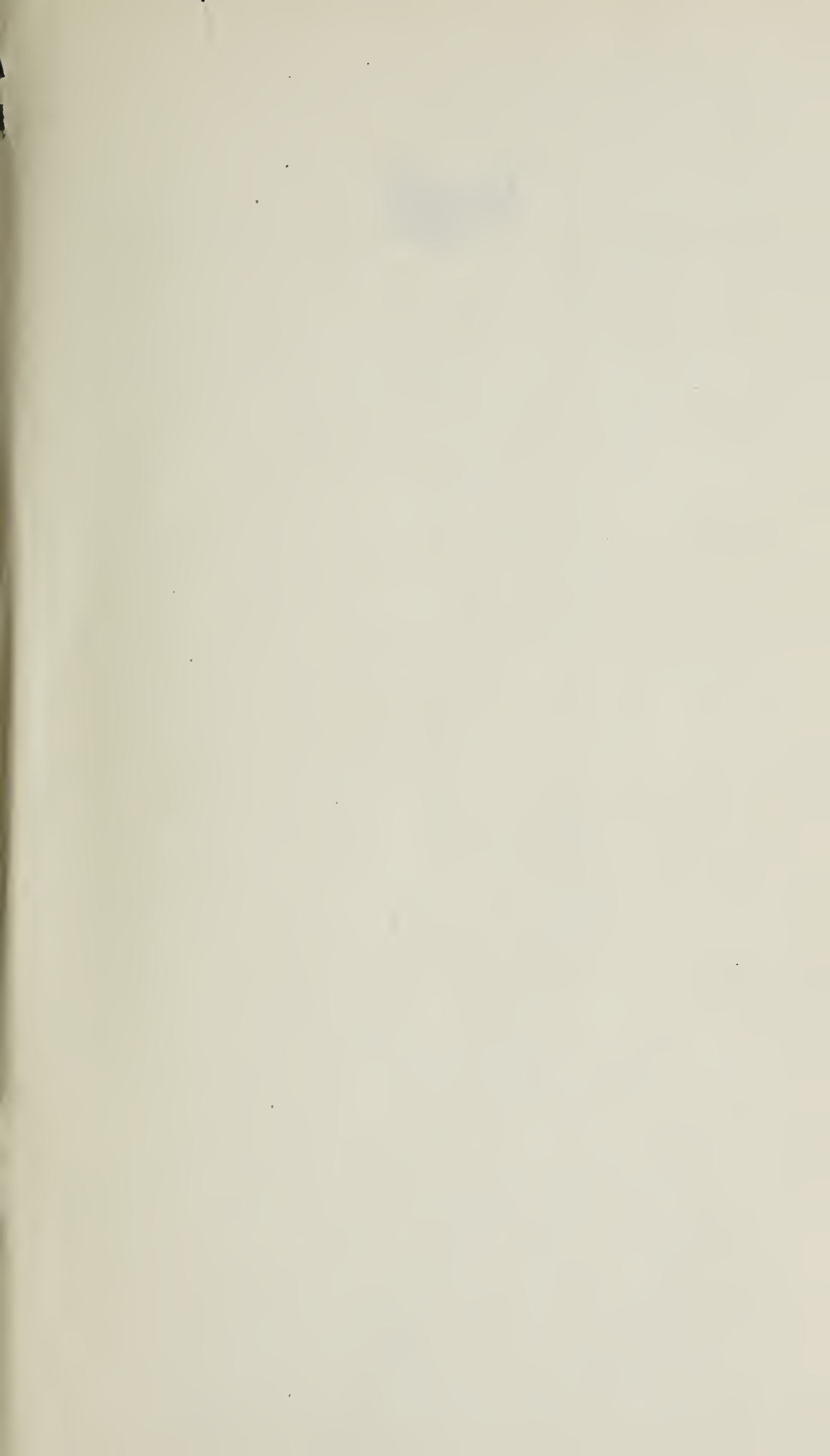
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